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INSTEAD OF JAIL

pre-and post-trial alternatives to jail incarceration

VOLUME 2

ALTERNATIVES TO PRETRIAL DETENTION

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National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

INSTEAD OF JAIL:

pre-and post-trial alternatives to jail incarceration

VOLUME 2

ALTERNATIVES TO PRETRIAL DETENTION

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OCTOBER 1977

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
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INTRODUCTION TO VOLUME 2

Material in this volume relates to practices which obviate pretrial jailing or reduce detention time. Only passing attention is given to the issue of speedier disposition of criminal cases. While a matter of great importance -- and germane to the question of jail space requirements -- it was beyond the scope of our study. Thus here the focus is on reducing detention time through alternative modes of pretrial release.

Historical, policy, and procedural coverage is given to use of summonses and police citation, release on recognizance, conditional release and deposit bail. Examples of contemporary practices and arrangements for pretrial services are included (Chapters I through III). Chapter IV discusses some concepts and procedures for policy planning and for monitoring and assessing pretrial release practices. Chapter V is a brief recap of common and recommended alternatives to pretrial detention.

Appendices A and B provide examples of statutes, court and departmental orders, a pretrial services agency policy manual and samples of forms. This material is designed to facilitate the introduction or revamping of citation and pretrial release programs.

Comparative costs figures, pretrial service personnel requirements, and broad issues of administrative organization, and program funding are dealt with in Volume 5 of this set of publications.

CHAPTER I

PRETRIAL DETENTION ALTERNATIVES

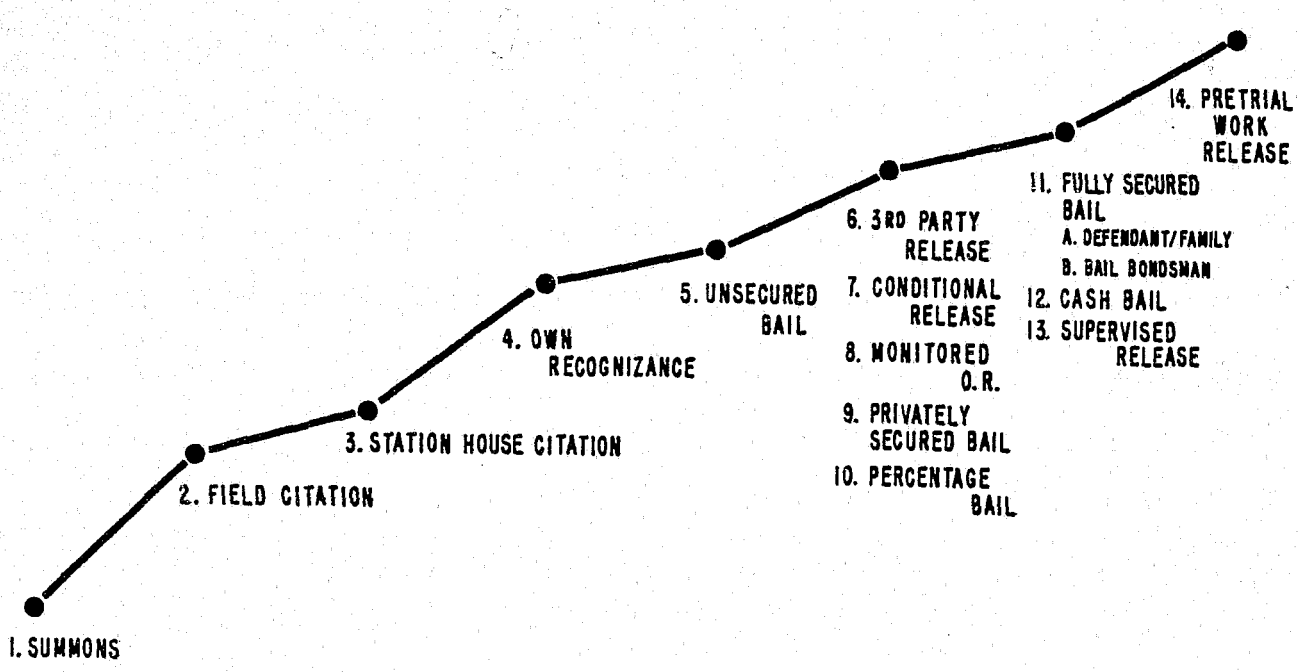
In structuring the study of pretrial detention alternatives, the central issue was stated as follows: what are the least interventionary (and generally least costly) practices which will assure an accused person's appearance in court? The assumption was that court appearance is the primary if not sole test of a practice's effectiveness in protecting the community. There is the question of possible criminal acts by a person on pretrial release and controversial proposals for "preventive detention" and civil commitment to deal with this. In recognition of this concern, available data were reviewed on re-arrest of pretrial releasees on new charges and results are included in the report. A brief discussion of the issues and suggested further reading will be found in the chapter notes.[1]

In general, the approach of the study is related to recommendations on pretrial detention by the National Advisory Commission on Criminal Justice Standards and Goals. The Commission recommended use of the least interventionary form of pretrial release necessary to assure court appearance. Its report discussed the issue of preventive detention, but did not take a clear position on the practice.[2]

Figure 1 on the next page pictures alternatives to pretrial release in relation to intervention level.*

* Release methods are defined below. See Chapter II and page 2, Chapter III.

Figure 1: Pretrial Alternatives to Detention



The chart illustrates the fact that alternatives run along a continuum of increasing controls or sanctions. A great variety of practices are followed from one place to another and others can be conceptualized. Those listed here are commonly used -- although not all of them will be found in any given jurisdiction. Some practices may be combined -- for example, third-party release with monetary bail; monitoring or supervision of persons released on "percentage" bail. What is sometimes called "jail O.R." may be practiced in lieu of citation by arresting agencies.

Important variations in how particular practices are carried out are occasioned by differences in authority to make decisions. Who makes the decision, for one thing, tends to determine how long a defendant will be in custody, as a minimum, once he is arrested. Pretrial jail operating costs and capacity requirements are affected by the relative use of the various practices and the length of time required for decisions to be made on those booked into

the facility. Obviously, use of summons and citation represent a 100% savings for the jail not only in relation to detention space requirements but booking facilities and operations.* Prompt release of those eligible from the jail's booking center (e.g., within an average of an hour or two) keeps down the number of prisoners confined at any one time.

Figure 2 pictures the relationship between time in custody and the locus of authority to decide on pretrial release. (The percentage figures and number of hours in custody are for illustrative purposes and do not represent policy proposals.)

Where the officer in the field elects to issue a citation, time in custody is shown as nil. The assumed consumption of an average of one hour in custody for stationhouse release would not affect the pretrial jail. The illustrative goal is an average of three hours in custody for those who may be released after booking by a "court representative." This would be a staff member of the jail or other representative of the court empowered to accept bail, issue a citation, or approve release on recognizance.

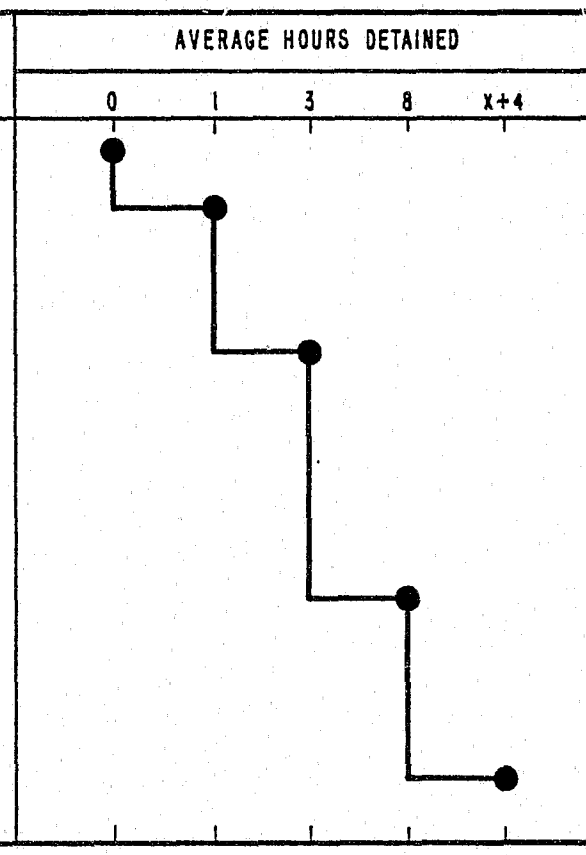
Where the decision is left to the court at initial hearing the suggested goal of eight hours in custody is based on the National Advisory Commission's standard (4.5.1) requiring presentation of the arrestee and facts of the charge to a magistrate within six hours of arrest - the additional two hours is for tasks necessary to implement the court's decision to release. Where a defendant is not released following initial hearing but later succeeds in gaining bail reduction or some other favorable decision by a judge, the

* If these practices are newly introduced or significantly expanded - savings will be less than 100%, since some of those summoned or cited will subsequently be booked into jail on "failure to appear" warrants.

illustrative time allowance is 4 hours plus X (X being whatever time expired from arrest until the decision which eventuates in the defendant's release).

Figure 2: Locus of Authority to Release and Detention Time

RELEASING AUTHORITY	RELEASE MODE
ARRESTING OFFICER	FIELD CITATION
DESK SERGEANT	STATIONHOUSE RELEASE
COURT REPRESENTATIVE OR JAILER	OWN RECOGNIZANCE SCHEDULED BAIL (CASH, PERCENTAGE, BONDSMAN, ETC.)
LOWER COURT	OWN RECOGNIZANCE UNSECURED BAIL THIRD PARTY CONDITIONAL SUPERVISED SECURED BAIL
SAME OR SUPERIOR COURT	ANY OF ABOVE



No attempt is made here to explain further or justify these figures, since they are only illustrative of the point made above that locus of the decision affects time in custody and therefore jail capacity requirements.

* 10% cited is of all arrestees - the other percentages are of all unsentenced bookings into the jail exclusive of cases where the arrestee is transferred to another jurisdiction or prosecution is dropped at or before initial court appearance. Percentage figures are for illustrative purposes only.

Historical Overview

Detention alternatives discussed in Chapters II and III which follow cover three groupings: use of summons in lieu of arrest warrant; citation in lieu of arrest and detention; pretrial release after booking. Before considering these practices separately, however, certain material is presented which is relevant for all of them, beginning with a brief historical overview.

Traditionally, the normal flow of arrestees into the criminal justice system is accomplished by the arrest of an individual who has: (1) committed a misdemeanor in the presence of a police officer or (2) given the police officer probable cause to believe that a felony has been committed. Arrests are for the most part made physically at the scene of the alleged offense, although a significant number of arrests are made by warrants when there is probable cause to believe that the person named has committed the specified offense.

A normal incident of arrest has historically included detention to insure the appearance of the arrestee at trial. This practice is still widely considered to be the normative approach, although there have been some alternatives to physical arrest and detention utilized over the years.

The roots of pretrial release programs as we know them in the United States are to be found in common law England where it was possible "to issue a summons instead of a warrant for arrest for the commission of any offense, even a felony, if he /the judge/ is satisfied that the person summoned will appear."[3]

In 1927 Arthur Beeley published a study of the bail system in Chicago. "Beeley found that the bail system was badly administered in Chicago. . .He also discovered that the setting of bail amount was more a result of arbitrary standards

than it was a function of assessing the accused's personality, social history, financial ability and integrity."[4] These findings apparently led Beeley, and Caleb Foote,[5] in a 1954 study of the administration of bail in Philadelphia, to recommend an increased use of the summons for lesser offenses, on the premise that reliance on the bail system was discriminatory to indigents and arbitrary in its administration.

Other findings by Foote led him to recommend that release procedures be designed to look at the background characteristics of offenders (e.g., ties to the community, nature of the offense, etc.) in arriving at the decision of whether the offender should be released.[6]

In the 1960's the Manhattan Bail Project (1961) sponsored by the Vera Foundation* was established to test the relationship of non-monetary bond release and the likelihood of appearance at trial. The Manhattan Project was initially established separately from the court and served in an advisory capacity. Background characteristics based on residency, length of employment, and family relationships were used to estimate the strength of the arrestee's ties with the community as an indicator of reliability that the arrestee would appear voluntarily at trial if released. Also considered was prior criminal record. The first such program was termed release on recognizance (ROR) which occurred only after booking and served as an alternative to the posting of bail.[7]

Spread of ROR Programs

An outgrowth of the Manhattan Project experience was proliferation of similar "ROR" projects around the country and two national conferences in 1964 and 1965. The Federal Congress, in 1966, passed the Federal Bail Reform Act

* Now known as the Vera Institute of Justice.

which, in effect, created a presumption in favor of non-monetary pretrial release for federal arrestees. Even earlier, 1963, pioneer legislation in Illinois betokened the eventual elimination of the professional bail bondsman system, as well as promising more liberal pretrial release of at least some less affluent arrestees. This was the so-called "10 percent bail" law, to be considered more fully in Chapter III.

The U.S. Office of Economic Opportunity was a catalyst during the middle and late sixties in promoting ROR programs through funding of scores of projects across the country. As this source of federal aid dried up, some of the slack was taken up by the newly emerging Law Enforcement Assistance Administration in the U.S. Department of Justice. Ultimately, of course, local communities, or the states, will have to take over financial support of these programs if they are to continue. At this time there is evidence that this is occurring, although some programs have expired and the future of others remains uncertain.

Some Key Assumptions

In the study which led to preparation of this report, all known published evidence on pretrial release rates and failure rates was reviewed. Several pretrial release agencies were visited for first-hand observation. Discussions were held with staff and other concerned officials. Project staff attended the 1975 and 1976 annual conferences of the National Association of Pretrial Service Agencies. Criminal justice data from several jurisdictions were restructured and analyzed to supplement previously published reports on experience with pretrial release.[8]

These efforts have not produced unassailable knowledge. But they did lead to adoption of certain assumptions which have support from the documented experiences of courts, law enforcement, and pretrial service agencies. These

are complemented by additional assumptions of a "common sense" nature. The assumptions are as follows:*

1. The earlier the decision not to detain an accused person can be made and implemented, assuming its accuracy, the less cost to the taxpayer and the arresteee.

2. A jurisdiction could set as a goal almost any level of pretrial release use - e.g., percentage of arrestees to be released or, conversely, held for trial - without exceeding rates to be found somewhere in the country. Out of considerations of law, humanity, community protection, and use of its public resources each jurisdiction must set a policy it can live with. At the same time it is worth considering that there appears to be no necessary connection between release rates and failure to appear rates.[9]

3. It is not possible to predict a specific failure to appear rate for a given level of pretrial release in a jurisdiction. The range of failure rates across the country is wide, and the pattern is somewhat erratic. But, given certain information, the probable range within which a jurisdiction's failure rate will fall can be estimated. Such predictions can be improved upon, over time, in a jurisdiction which maintains certain records faithfully.

4. Average length of time in pretrial release status is a major factor in failure rates - that is, willful failure to appear in court or rearrest are more likely to occur the longer final disposition of cases is delayed.

* For data and references drawn on in framing these assumptions, see Chapter IV and Note 10 to this chapter.

5. Characteristics and circumstances of the defendant appear to have some relationship to the prospect of failure, but a weak one, especially any one factor taken alone. Where several negative factors are present, failure is undoubtedly more likely than where all are positive. Imposing special conditions, keeping in touch with the releasee, verifying his court appearances, and providing needed socio-economic services appear to enhance the prospects of success for higher risk individuals.

Careful screening and assessment of candidates for pretrial release and effectively matching them with appropriate conditions and services should permit a liberal release rate without consequent high failure rates. This should aid in pursuing the goal of equal justice for defendants without regard to financial resources or community position. Provision for prompt disposition in higher risk cases should help counteract effects of the "time factor" referred to in Assumption 4.[10]

Early Decisions

Booking a person into jail is an expensive procedure - estimated cost $24.00 per case or more than $150 million dollars a year nationwide. Holding him in jail is estimated to cost, on the average, $19 a day (estimated national cost is more than half a billion dollars a year; this includes booking costs).[11]

Reduced time in custody - or avoidance of the booking process altogether - promises significant dollar savings in many jurisdictions (i.e., those not already making optimal use of pretrial alternatives). There are obvious benefits to the accused person from use of summons or citation in lieu of arrest

or, in the absence of these, minimal detention pending pretrial release. Some of these defendant benefits - e.g., ability to remain employed - also benefit the community.

Early decisions, of course, are more readily made in cases involving less serious charges - since it is more feasible to delegate authority for these to people in early contact with the defendant, the arresting officer, for example. Also affecting the speed with which decisions can be made is the availability of easily verifiable information. Where court action is required, early release - especially for nighttime or weekend releasees - cannot be achieved without some arrangement for more or less "around-the-clock" availability of judges or judge substitutes such as bail commissioners.

Goal Setting

If a jurisdiction's jail is crowded or there are complaints on other grounds of pretrial detention policies, assembling the relevant facts is a first step in policy review or planning. Such a study should point up the current level of use of various alternatives to detention; salient characteristics of prisoners held until final disposition; time required, on the average, for pretrial release decisions as well as to process defendants from arrest until sentence or dismissal of charges.

Such an analysis will lay the groundwork for considering possible policy changes. It will also permit a subsequent assessment of how fully such changes are carried out and the resultant effects. This would be so, especially, if the new policies are made explicit through establishing goals for the use of various pretrial release alternatives - e.g., increase use of citation in misdemeanor cases from 5% of arrests to 15 or 20%; increase use of release on recognizance in felony cases from 20% to 40%; establish a supervised pretrial

release program to permit an average caseload of 100 persons in this status; shorten processing time in detained felony cases from an average of eight to three months; etc.

Chapter IV provides suggested procedures for carrying out studies of this sort, setting goals, and for monitoring and assessing the implementation of plans. It also includes data from a number of jurisdictions, which bear out the point made in Assumption 2: that the range in use of pretrial detention, nationwide, is extreme.*

Chapter IV includes suggested procedures for recording and analyzing pretrial release failure rates and data on failure rates from a number of jurisdictions. The latter may be helpful in assessing or in establishing "failure tolerance limits" in connection with goal setting on pretrial detention.

* Data on use of police citation and related failure to appear rates are separately presented in Chapter II.

CHAPTER II

USE OF SUMMONS AND CITATION

The least interventionary procedures in relation to persons accused of crime are summons and citation. The terms are sometimes used interchangeably. They are similar practices - entailing a direction to a citizen to appear in court to answer criminal charges. As used here, summons refers to an action by a magistrate or a prosecutor in lieu of issuance or request to issue an arrest warrant. Citation refers to the issue of an order to appear in court by the arresting officer - in lieu of his taking the person into physical custody and delivering him to the jail.

Use of Summons

In many jurisdictions magistrates empowered to issue arrest warrants have the option to use a summons instead. As was stated earlier, the practice goes back to common law England, where summons could be used in connection with felony charges as well as misdemeanors. In this country, a cursory review of a sample of state laws indicates that the practice appears to be generally limited to misdemeanor cases.

New York Law. In New York State criminal courts may issue a summons in misdemeanor cases. The "sole function" of the summons is to achieve a defendant's appearance in court for arraignment as result of a criminal complaint. That is, unlike a warrant, the summons is not an accusation, but an "invitation" to appear in order to face an accusation. The invitation is not exactly non-coercive. If the person fails to appear, the magistrate can of

course issue a warrant for his arrest, and the accused is also liable to a charge of contempt of court for ignoring the summons.[1]

The "Fingerprint" Issue. A section of this part of New York's criminal procedure law, incidentally, deals, in a measure, with one issue which arises frequently in relation to both summons and citation in lieu of arrest. Arresting agencies often object to these practices since, with no provision for booking, the defendant is not routinely fingerprinted. There are several bases for the objection. Identification is not fully established, so that someone other than the accused might appear in his stead; or the accused (in citation cases) may use an alias in order to conceal a prior record which could have been discovered through a "fingerprint check." If the accused fails to appear or becomes a fugitive subsequent to first appearance, without a fingerprint record chances of his apprehension may be reduced.

Section 130.60, Title H, instructs the court to order that a defendant be fingerprinted when he appears in court as result of a summons based on complaint of a "fingerprintable" misdemeanor - that is, any of several misdemeanors specified in the law as requiring the accused to submit to fingerprinting.[2]

The California police citation statute authorizes the arresting officer to require defendants to go through a booking procedure "voluntarily" prior to arraignment, and magistrates are required to enforce such instructions before proceeding. In Santa Clara County all arrestees who are cited in the field are instructed to report to an office in the courthouse prior to their court appearance in order to complete a limited booking process which includes fingerprinting. The judges will not proceed with initial hearings until the defendant shows evidence of having complied.[3]

Summons Procedure in Oregon. To return to the summons procedure, a different arrangement prevails in Oregon. Here the summons process is tied to that of police citation. Section 133.055, Code of Criminal Procedure, provides that a peace officer may "issue and serve" a citation in lieu of taking a person into custody on a criminal charge. Section 133.045(2) provides that in issuing an arrest warrant the magistrate may authorize the police agency to use a citation in lieu of arrest and custody. Another more substantial difference in the Oregon laws is that citations may be used not only in misdemeanor cases but in connection with those felonies "which may be deemed a misdemeanor charge after sentence is imposed." This refers to a number of felonies, essentially in less serious classes, where the sentencing judge is empowered to enter a judgment of misdemeanor conviction even though the plea or verdict related to a felony level crime.[4]

Serving of Summons. The number of summonses, subpoenas, and arrest warrants issued in populous jurisdictions, including civil and criminal matters, can be staggeringly high. Unpaid parking tickets alone can run to thousands. It is understandable that police agencies, with extensive accumulations of unserved warrants, do not welcome any increase in this area of their workloads.

True, service of a summons represents less work than completing an arrest. But if there is a failure to appear, the arrest must usually be made anyway, so that total time invested in the case is greater than had a warrant been issued in the first instance. Thus overall cost or savings would be dependent on the failure to appear rate.

Unfortunately, in the course of this study we came across no data specifically on failure to appear rates by persons summoned in connection with criminal charges. A special investigation of the experience of various

jurisdictions with use of summons was considered. Since this was not provided for in the grant application and original study design and since the undertaking appeared formidable after tentative probing, the idea had to be dropped.

Some information was gained on failure to appear rates of persons given police citations. Most of this relates to persons cited after being taken into custody and brought to a police station - or it includes such cases along with those cited in the field, without distinction. Failure rates ranged from a relative handful of cases to as high as 21% of those cited.*. It would seem a fair assumption that failure to appear rates for summonses, in any given jurisdiction, would closely parallel rates for police citations, but only local record-keeping and periodic tabulation of statistics could provide a reliable answer.

Alternative Methods. In any event, there are alternatives to the expensive process of having a police officer serve a summons personally on an accused person. The New York law cited earlier provides that a summons may be served by "a police officer, or by a complainant at least eighteen years old or by any other person at least eighteen years old designated by the court." (Title H, Section 130.40.)

Private firms engage in service of court papers in many jurisdictions, probably at much less cost to the community than where police officers perform the function. Under the New York law volunteers could be used - or certainly city or county employees whose salaries and benefits would not approach those of the sworn police officer.

*For further discussion of citation failure rates see section which follows on police citation.

Other possibilities exist. In California the prosecutor's office may mail a summons to the defendant, instructing him to appear in court to answer a misdemeanor complaint. We were told by one high-ranking police official in another state that his department - with both summonses and arrest warrants - tried first to arrange with the defendant, by phone call, to report to court voluntarily. This is suggestive of a procedure which might be institutionalized through law or a formal court order.

Greater Use Feasible. There are unquestionably many situations where an accused person would appear in court on the basis of a summons - whether officially executed and personally served or conveyed in some less formal manner. The reduction in law enforcement and jail costs for the community could be substantial. Properly handled, including provision of information as to legal rights, the procedure would be less costly and more humane for the defendant than undergoing arrest.

At the same time, there is the problem of developing sufficient information to make a wise decision. Casual issuance of summons without some inquiry into the defendant's background and circumstances could result in a very high non-appearance rate.

Police Citation - New York Experience

Reference was made in the introductory section to the pioneering work of the Vera Institute of Justice in the area of release on recognizance. The Institute involved itself in a number of studies and collaborative experiments with the New York City courts, prosecutors, and police department - to the ends of fairer treatment of indigent defendants as well as more efficient criminal justice practices.[5]

Desk Appearance Tickets. Among projects which took root and resulted in extensive changes in police practice was one in 1964 which introduced an adaptation of the Institute's release on recognizance program at the point of arrest - rather than at first court appearance. This was one of the first formalized police citation programs in this country for persons accused of criminal misdemeanors.

As practiced, then and now, police citation in New York City is what has come to be called elsewhere "stationhouse citations." In New York it is known as the desk appearance ticket or "DAT" system. The arrestee is brought to a precinct station. He goes through a booking procedure which varies with the charges - that is, he may or may not be fingerprinted and/or photographed. He is interviewed, and some measure of verification is carried out; this may be limited to reviewing identification materials on his person and checking as to whether he is wanted on other charges.

Pilot Project. In the original demonstration project in one Manhattan precinct, with training and explicit guidelines, officers interviewed arrestees and carried out a verification procedure much like that used by Vera ROR staff at the courts. The categories of offenses where citations could be used was limited. Releases were granted rather conservatively. Court appearances were verified and those failing to appear were promptly contacted and often persuaded to appear, with their original failure being excused. Few warrants had to be issued for "willful" failure to appear.

Because of practices in New York City, the citation program offered the possibility of large-scale savings for the Police Department. The arresting officer takes the defendant to a precinct station, then to a holding facility in the criminal court building. He contacts the State Criminal Justice Information System in Albany for criminal record data, and this entails a wait, on

the average, of three hours. He must then confer with a deputy prosecutor, and if a charge is to be pressed, with a court calendar clerk. He then waits his turn to appear in court with the defendant and present his arrest report orally to the judge. (Courts are in session daily until after midnight.) An average of eight hours' officer time are consumed, and some part of this is inevitably over-time.

As a result of initial outstanding success, the desk appearance ticket system was gradually extended to all precincts in all New York City boroughs. The categories of misdemeanors for which citations could be issued were increased. In addition, arrangements were made to authorize private security officers in a number of department stores to issue citations, e.g., for shop-lifting or pilfering. By 1974 appearance tickets were being used in some 55% of misdemeanor cases.

In the meantime, under management pressure to use the desk appearance ticket, precinct staff became more cursory in their interviews and verification efforts. Follow-up on those released was abandoned as the numbers mounted. As a consequence, failure to appear became an increasing problem.

Failure Rates vs. Savings.* In the first quarter of 1975, failure to appear rates ranged from 10% in Richmond (Staten Island) to a high 28% in Manhattan. The city-wide average was 21%. In addition to a greater permissiveness, other factors help account for the higher failure to appear rates. Rates are highest, for example, in densely inhabited Manhattan with its highly transient population. There is extensive use of citations by store detectives in Manhattan and a very high failure rate associated with this practice (55%). Another factor there has been a requirement that cited defendants must appear

*The figures cited in this section were taken from internal records of the New York City Police Department supplied to us during the course of interviews with several members of the Department's Criminal Justice Bureau in May 1975.

in court in the daytime, and reluctance to lose a day's work apparently leads some to default. When such defendants could appear at night court, lower failure rates prevailed.

Although failure rates may be approaching an unacceptable level in one or two of the boroughs (e.g., Brooklyn 20%), it is unlikely that a radical change will be hastily made in the system. It was estimated that $1,733,555 were saved city-wide in 1974 -- in terms of reduced police manpower tied up in arrest procedures. Many of the defaulters are chronic petty offenders subject to occasional arrest -- so that they are likely to be picked up without special efforts to serve a warrant. Some are drifters who leave and may not be seen again in the City. The cost of warrant arrests on the others -- say 10% of all cited cases or about 4,000 arrests in 1974 -- would have run about $350,000 -- still leaving very substantial savings.

New York City figures reflect that factors other than frequency of use of pretrial release account for failures. The Staten Island failure rate was a comparatively low 10% -- with an amazingly high 87% use of desk appearance tickets in misdemeanor cases. Manhattan's 28% failure rate was associated with 49% "DAT" use with misdemeanants.*

Practices Elsewhere

As early as 1915 in California, citation programs were instituted as a means of coping with high numbers of arrests for traffic violations.[7] It was evidently assumed that failure rates would be tolerable, while substantial savings would accrue as a result of not having to detain every violator. It was more than forty years later that the California legislature extended the same assumptions to arrests for criminal misdemeanors.

* During 1967-71 the failure to appear rate was 5%. (See page 53 reference cited in Note 5.)

California's statute (See 853.6, Criminal Procedure Code) is representative of many enacted in other states, although it is one of the most comprehensive. California allows the release of misdemeanants in the field, and at any point up to arraignment. Some other states have similar statutes and extend eligibility to some felons. Connecticut authorizes release for bailable offenses, i.e., those offenses not punishable by death. In 1971 ten percent of felony arrestees in Hartford were released by the Police Department on a promise to appear.[8] In Oregon police may issue citations for misdemeanors or felonies which may be a misdemeanor after sentencing.[9] Early citation statutes in Illinois and Montana were silent as to the level of offense; recently enacted laws in Minnesota and Vermont mandate the use of citation in certain misdemeanor cases and authorize it in felony cases.[10] Some other states authorize the arresting officer or agency to cite for misdemeanors but do not extend this to jailers or other court representatives (e.g., Louisiana[11]).

The California statute authorizing citation release, enacted in 1959, did not differentiate as to the point in time that a misdemeanant could be released. An amendment to the statute in 1969 introduced a provision which authorized citation release either pre- or post-booking, with pre-booking release made discretionary with the arresting officer and post-booking release decisions resting with the booking authority.[12]

In the course of project field visits to some thirty counties or cities in fifteen states and the District of Columbia, the project encountered only scattered use of citation in lieu of arrest in criminal cases. The practice seemed to be unknown in several states. It is being used in many jurisdictions in California and increasingly in Oregon and Washington. Significant use was found in Baton Rouge, Louisiana (11% of all City Police Department arrests in 1974[13]), Washington, D.C., New York City, and in Connecticut. (Another

study, covering 103 cities in 29 states and D.C., reported use of stationhouse release in 56 cities and field citation in 52 of these. The cities using citation were not named, but 36 of the 103 were in states where we visited and found citation programs. Of the remaining 67 cities, then, it appears that citation may not be practiced in 49 or 73%.)[14]

A Comprehensive Model

Since they illustrate an interesting continuum of practice and several variations in procedure, California citation practices afford a good model, all or any part of which could be adopted in other jurisdictions. The following discussion provides highlights and additional material is presented in Appendix A.

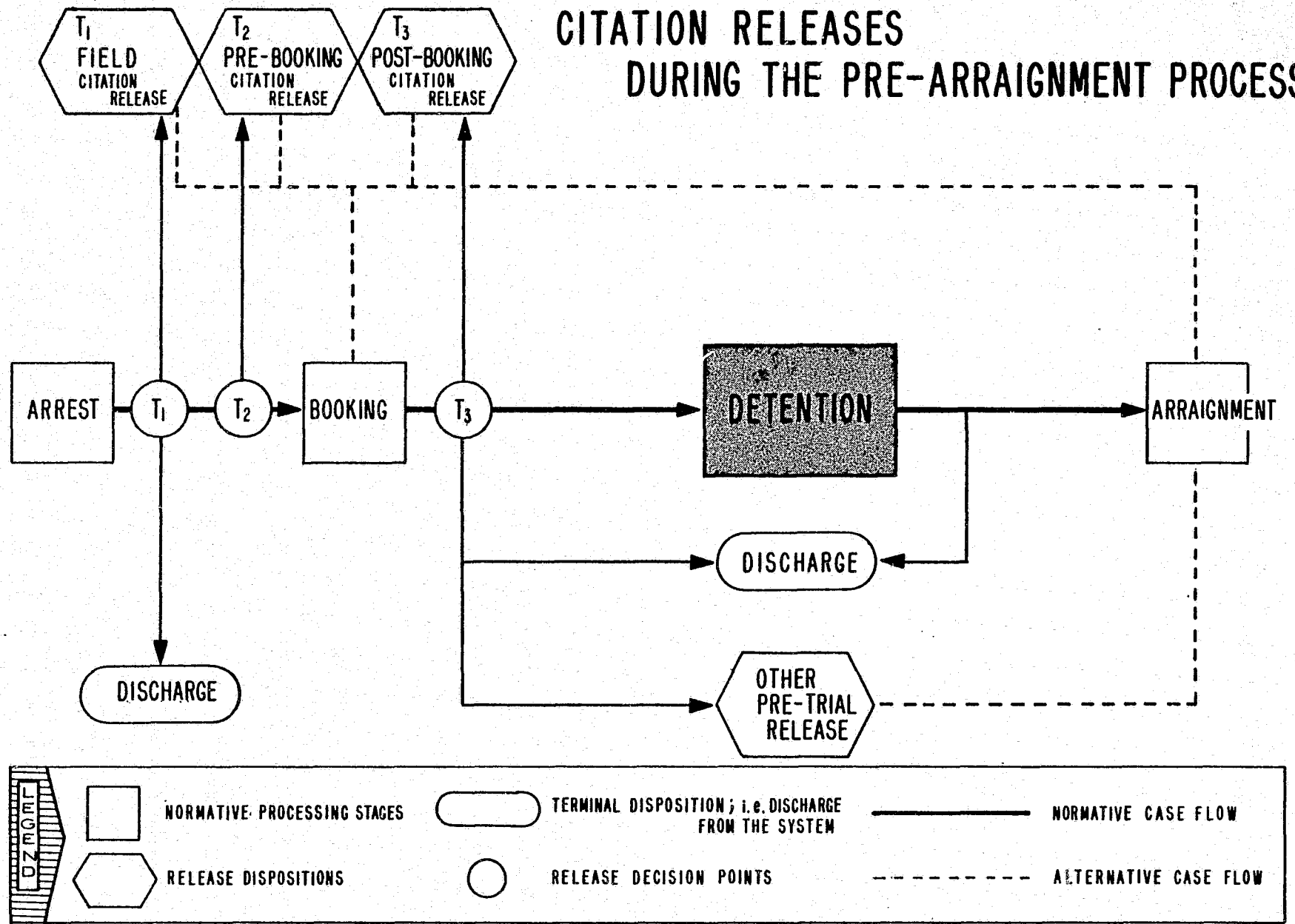
A flow chart (Figure 3) illustrates pre-arraignment process in various California jurisdictions. The primary foci of the chart are the decision points associated with the issuance or non-issuance of citation release (designated as T_1, T_2, and T_3).

Each jurisdiction has interpreted the citation statute according to its needs. Figure 3 represents pre-arraignment processes in jursidictions where there is a metropolitan system of police agencies (i.e., state, county, and city) that utilize the county jail for final detention. Three different types of decision points have been identified as potential release locations: the field (T_1), pre-booking (T_2), and post-booking (T_3).

A reading of the statute would lead one to assume that field releases (T_1) and post-booking releases (T_3) are the only two programs authorized for misdemeanants charged with non-traffic violations. Some police departments in California, however, have interpreted the statute to authorize, or at least tolerate, a pre-booking release location (T_2). This innovation in release

FIGURE 3

CITATION RELEASES DURING THE PRE-ARRAIGNMENT PROCESS



procedures takes place at a location situated in a physically distinct area between field arrest locations and the detention facility where booking occurs. This pre-booking release location may occur at police headquarters (as in San Diego, for example) or at any other intermediate point prior to booking. (See description below of "trailer project.")

Key determinants of release decision point locations are law enforcement departmental policies. Some policies may require the police officers to bring arrestees into the stationhouse or detention facility for release rather than effectuating the release in the field. At decision point (T_1) there may be a critical lack of information regarding the arrestee which can be verified because of deficiencies in communications between the police officer and the stationhouse or booking center. Until electronic devices designed to tap computerized data sources become more widespread, this communication deficiency will be an ever present problem.

Even with authority to issue field citations police officers naturally vary in willingness to release. The officer is faced with making a quick decision on the basis of limited information. He may be anxious to do his utmost to assure successful prosecution, and therefore unwilling to take a chance on the defendant's "skipping." He may even assume that prosecution will not go forward or the defendant will be let off lightly and want to see that he gets at least a taste of deterrence by experiencing jail commitment, however brief.* At times, especially in crimes involving personal violence, he may consider it essential to remove the arrestee from the scene to prevent continuance or prompt repetition of criminal acts.

*This, of course, is scarcely an ethical practice and is outside the spirit if not the letter of the law.

Field Release. After an arrest occurs the officer has the option to release a misdemeanant who does not demand to be taken before a magistrate. This type of release is indicated by T_1 on the flow chart. In considering release, the officer weighs the facts and makes the decision in accordance with criteria established by the local police department in conformity with provisions of the statute.

A release made at T_1 is the most informal non-penal technique available to assure court appearance of an arrestee. The officer is not required to transfer him to an intermediate location or to the detention facility; it is presumed that the arrestee will comply with system requirements on his own initiative. Arrestee-initiated activity which occurs outside the normative prearraignment process is indicated by the broken line on the chart. Release is conditioned on the misdemeanant's written promise to appear. (For examples of citation forms see Appendix A.)

If a release is made in the field, the date of initial hearing must be at least five days subsequent to arrest. The officer may, if he feels that it is appropriate, require the arrestee to report for booking prior to arraignment, and if he fails to do so, the magistrate must require him to be booked before the proceedings are concluded. Booking, under these circumstances, does not involve detention, and in some jurisdictions is handled in the sheriff's licensing office rather than the jail (e.g., San Diego and Santa Clara Counties, California).

Field citation is not an alternative to arrest per se, as the statute requires an arrest even if it may be considered only technical in nature. The use of citation is a discretionary method for diverting a portion of the pre-arraignment detention population back into the community, at the point

of arrest, thereby saving transportation, detention, and other costs. And it allows the arrestee to retain his freedom during the period of time when he is presumed to be innocent.

Pre-Booking Citation Release. Pre-booking citation release (T_2) has been included in this model as an interpretation of the California Statute 853.6, based on existing citation programs in the State. This release point can be situated anywhere between the scene of arrest and the jail where final booking takes place. This type of release resembles post-booking release in the sense that the arrestee is taken to a formalized law enforcement facility for a further check into his background before a release is effectuated.

Oftentimes a police officer will transport the arrestee to one of the police stations where a quick check will be made into the information that the arrestee has provided. This allows the police officer, or his superior at the department, to verify the information provided by the arrestee prior to the issuance of the citation.

One jurisdiction (Santa Clara County) instituted a pre-booking release ("trailer")* location where an arrestee was taken for screening of charges by a deputy District Attorney. In some instances a decision was made to drop charges, and the arrestee was discharged. In others felony charges were reduced to misdemeanors, making the person eligible for citation release. A release on recognizance evaluator took background information in detail to run a check, just as the booking authority would at the detention facility (T_3). After the evaluation, if a discharge was not in order, the evaluator would make a release recommendation to the police officer. If the officer chose to ignore a recommendation to release, or if a release was not recommended,

*So called because the operation was conducted in a large modified house trailer in an area behind the county jail.

the arrestee was taken to the county jail for final booking. (Subsequently, this experimental project was institutionalized with several modifications.[15])

Arrestees who are cited out prior to booking are subject to the same requirements as a person released in the field (i.e., booking and appearance requirements). The release process is also the same (i.e., written promise to appear).

Pre-booking citation release may save the police officer some traveling time and it enables him to make his decision on the basis of better informed judgment. This compromise between field and post-booking release, in any event, relieves the pre-arraignment process of a portion of its case flow burden, with less deprivation of liberty for the arrestee than booking entails.

Post-Booking Citation Release. The third type of citation release utilized in California is the post-booking release (T_3). According to the statute, the release may be made by either the officer in charge of the booking or his superior. This procedure serves as a system check on field officer discretion. Arrestees not released prior to booking are entitled to an immediate investigation into their background to see if a release should be made. This requirement is buttressed by the latest amendment to this code section (1974) which requires the arresting officer to give reasons for the non-release of the arrestee.*

* It should be noted that if citation release is still not approved at this stage, the defendant is not necessarily detained. Bail schedules are in general use and jailers are authorized to accept cash bail or to release people where security is provided by licensed bondsmen. In many counties round-the-clock release on recognizance interviewers are available, and, in some, duty judges are on call and may approve immediate non-monetary release or release on reduced bail. In addition, jailers have authority, acting in behalf of the arresting agency, to release without prosecution public inebriates, as they sober up or a third party agrees to take responsibility for them. This practice, incidentally, was found in other states where public intoxication is still an offense, although usually it was based on local criminal justice agreements rather than statutory authority. See Volume III.

Release Criteria. California statute §853.6(i) lists eight factors which must be considered in issuing a citation release: (1) identity, (2) address, (3) length of address, (4) length of in-state residence, (5) marital and family status, (6) employment, (7) length of employment, and (8) prior arrest record. The law is silent on but has been interpreted to allow police agencies to add further considerations. Police departmental guidelines do list other factors, e.g.: ability of the individual to care for himself, a likelihood of future offense upon release, a need for further investigation, a belligerent attitude by the individual, prior failure to appear, refusal of the arrestee to sign the citation form, and outstanding warrants. (For example of departmental orders, see Appendix A.)

Alternative Procedures. In some counties, the booking sergeant (or watch commander) in the jail is assisted in selection of persons for citation release by release on recognizance staff. Four variations were found:

> In San Diego County the booking form is designed to include information considered important in a citation decision. This is routinely collected in the booking interview and through subsequent procedures to check on outstanding warrants, parole or probation status, and criminal record. The booking form, once completed, goes promptly to the watch commander, who makes the release decision.
>
> In Marin County the Probation Department has a release on recognizance unit. Among functions of its interviewers are to screen all persons brought to the jail immediately after booking and, in misdemeanant cases, to make recommendations to the watch commander as to citation release.

In Santa Clara County a similar arrangement exists, except that release on recognizance screening is handled by an independent county agency, operating under a policy board of judges.*

In Sacramento County the ROR screening agents are deputy sheriffs assigned to the jail as classification officers. They issue citations in the name of the Sheriff, where deemed appropriate in misdemeanor cases.*

Frequency of Use/Violation Rates

Among the limited number of law enforcement agencies visited during this project which reported the regular use of misdemeanant citation, some could supply no data reflecting the frequency of use. Only in New York City and Washington, D.C., was it possible to collect data on failure to appear rates. Where field and stationhouse and/or jail citation occurs it was possible to isolate field releases in only one instance.

Since all programs released only misdemeanants, and since public inebriates (where this was still an offense) were rarely cited, we sought to develop a release rate based on citation as a percent of misdemeanant arrests, excluding arrests for public intoxication. The accompanying table lists the agency's number of citations and total misdemeanor arrests with public inebriates excluded.

The data reflect citation rates ranging from 20 to 54%. The median rate was 23.5%.

New York City's failure to appear rate of 21% has already been discussed including the fact that the figure varied by borough from 10 to 28%. (Page 18.)

* Fuller descriptions of these programs will be found among example programs included in Chapter III. Also among the programs described is that of the D.C. Bail Agency whose staff assists Metropolitan Police Department desk sergeants in decisions on stationhouse citation releases.

Table 1

Use of Police Citation[a]

City Police Department	Year	Police Citations	Misdemeanant Arrests (Public Intoxication Excluded)	Citation Rate (%)	
				Total	Field
Baton Rouge, La.	1973	1,110	5,600	20	Unk.
New York City	1974	92,980	172,760	54	0
Oakland, Ca.	1973	5,117	21,433	24	12
Sacramento, Ca.	1974	1,249	8,777	b	14
San Diego, Ca.	1974	7,068	20,407	35	Unk.
San Jose, Ca.	1974	1,986	9,238	24	Unk.
Washington, D.C.	1973	8,500	28,000	30.3	0

a Median 23.5. In computing the median the rate for Sacramento was 14 -- same as field citation. See Note b.

b' In Sacramento all misdemeanants not field cited are brought to the County Jail, where many (50% of non-public inebriates) are cited out by jail staff. In the other California counties arrestees are often brought to police headquarters (also in San Jose to the "trailer") and many citations occur at this point. Note that this is true with half of Oakland's police citations. At the same time, in these other counties, jail citations also are given after booking. Thus it is not possible to compare Sacramento figures with theirs.

NOTE: We were unable to obtain current statistics in New Haven, Connecticut, but earlier it was reported that a total 44% of misdemeanants, exclusive of public inebriates, were issued citations -- 11% in the field and 33% in the stationhouse.[16] It should be pointed out that if citations issued by county jail staff in California (under agreements with arresting agencies) were counted, the rates shown above would be much higher, 50% in San Diego, for example.

The failure to appear rate in Washington, D.C., was reportedly 1.7% in 1974.[17] Rates ranging from zero to 13% and averaging 9% were reported for several agencies in Contra Costa County, California,[18] and 8% for the Oakland, California, Police Department.[19] Failure rates for persons released on bail or various forms of recognizance or conditional release range widely, but a rate of 9% is reportedly average for a sample of U.S. cities.[20] These releases involve serious felony as well as misdemeanor cases. Thus, a failure rate of 10% for cited misdemeanor arrestees would probably not be seen as intolerable in most communities. Lower rates would be desirable, of course, and higher rates may be supportable, in terms at least of their economic concerns.

Need for Top Level Support

Since citation release puts a heavy decision burden on relatively low ranking criminal justice personnel, in the absence of strong direction and support from management, the procedure is likely to be minimally used. Where the opposite prevails - as in New York City, for example - very high usage is likely. Legislative provisions, as in California, which reflect a clear state policy in favor of citation and require arresting officers to put into written form their reasons for not citing also make for more liberal use - especially where police management also is actively supportive. (In San Diego, for example, arrest reports are reviewed by superior officers and conferences scheduled with officers who appear to avoid reasonable use of citation; marginal cases are supposed to be brought to police headquarters for final decision prior to booking into the county jail; statistics on use of citation are tabulated, so that top management can be informed as to the level of usage and any trends.)

In addition courts can intervene, as happened in Minnesota, and insist that citations be used in specified categories of arrest or that acceptable reasons for not citing be stated in writing.[21]

Where post-booking citation by the jailer is possible, as in California, pressure to use the procedure runs high when the jail is chronically overcrowded. Although a less than ideal motive, this does occasion liberal pre-arraignment release practices.

Appendix A contains materials which might be useful in considering the establishment of citation policies and procedures - or reviewing an existing program. This includes examples of a statute and departmental orders.

CHAPTER III

POST-BOOKING RELEASE*

Figure 1 on page 2 listed several options for pretrial release of defendants after booking. In some jurisdictions the options boil down to two: release on personal recognizance and traditional forms of bail release: cash, fully secured, or arranged through a professional bondsman. Many arrestees cannot make bail, and others may require several days to do so with the help of relatives, friends, or other sources of loans. Many arrestees may not appear to be good prospects for release on recognizance - because of lack of local residence or community ties, present offense or prior history, or other circumstances.

Reported experience in several jurisdictions indicates that a range of options -- offering a variety of conditions and differing levels of supervision -- will permit maximizing pretrial release while holding violation rates within bounds. Achieving this requires, in addition to a range of options, a good decision-making system and services to implement decisions effectively.

Terms used in Figure 1 to denote different levels of pretrial release sanctions are defined arbitrarily below. In practice, they may be used to include measures not mentioned in the definitions. This is often because two or more modes, as they are defined here, may be combined. The most important distinctions in practice are between monetary and non-monetary release and supervised or unsupervised release. Further important differences relate

* This chapter is concerned essentially with releases which occur after the option of police citation has not been used. As was brought out in the foregoing section, citation release may and does occur after booking in some situations. As with many criminal justice practices there are overlaps in authority and practices cannot be neatly compartmentalized.

to particular arrangements attaching to monetary bail and how and by whom supervision is provided. The definitions below attempt to cover these variables and show how they are at times combined.

Release on own recognizance, as defined here, means release without monetary bail or other special conditions and without supervision or specially provided services. The court simply puts the person on his honor to report when scheduled.

Unsecured bail permits release without a deposit or purchasing a bondsman's service. It differs from own recognizance only in that the defendant is subject to paying the amount of the bail if he defaults. Since the full bond amount is rarely collected, this differs little from recognizance release.

Third-party release extends to another person responsibility for the defendant's appearance in court. This may be an individual: relative, friend, employer, attorney, or a volunteer who may be unknown to the defendant. It may also be a social agency. In the latter event, ordinarily, the arrangement is more akin to supervised release than to third-party release in the more traditional sense. Third-party release may be associated with a condition of unsecured bail, with the third party as co-signer.

Conditional release means that the defendant agrees to certain matters beyond court appearance, e.g.: remaining within a defined geographical area, such as the county; maintaining steady employment or school attendance; avoiding contact with the victim, with associates in the alleged crime, or with other persons; avoiding certain activities or places which might be occassions for drunkenness, drug abuse, or reversion to criminal activity; observing a curfew. Other kinds of conditions might involve voluntary participation in some treatment, training, or other service to improve an individual's social functioning or to assist him to avoid the occasion of further crime - as through excessive drinking or illicit use of drugs.

Conditional release is probably not often used in "pure" form. That is, it is likely to be associated with third-party or supervised release.

Monitored O.R. is recognizance release with addition of minimal supervision and service. The latter would ordinarily include: the defendant's keeping a pretrial services agency advised of address and of his continuing presence in the community by phone calls at prescribed intervals, usually no oftener than once a week; the agency reminding the defendant of court dates and verifying his appearances.

Privately secured bail is an arrangement under which a private organization provides bail for indigent arrestees who meet the organization's eligibility requirements. In effect, the organization provides services akin to those of a professional bondsman, but without cost to the bailee.[1]

Percentage bail is a publicly managed bail service under which the defendant deposits a percentage of the bail amount -- typically 10 percent -- with the court clerk. In some jurisdictions (e.g., States of Kentucky and Oregon) he has a right to release under percentage bail, if he fails to obtain release on his own recognizance or conditional release and if he can afford the deposit. In other jurisdictions, the court may have discretion to insist on fully secured or cash bail. Percentage bail is the most common form of pretrial release in Illinois, where professional bondsmen (see below) no longer function.

Once he completes his scheduled court appearances, the deposit is returned to the defendant. A charge (usually 1%) may be deducted to defray program costs. Moreover, if he is convicted and sentenced to pay a fine, the clerk may impound the deposit for use toward fine payment. The court may also order payment to defense counsel from the deposit.[2]

Fully secured bail may be required. The defendant or his family may put up the security. More often security is put up by a professional bondsman

who performs this service for a non-refundable fee, ranging upward from 10%. This option also means that the court shares with a private entrepreneur the decision on pretrial release -- since the bondsman has no obligation to extend his service to defendants even where they are willing and able to pay his fee. Moreover, the bondsman may require collateral, so that he takes little or no risk. The "bail bondsman system" has been widely criticized for many years and is becoming obsolete in some jurisdictions.[3]

Cash bail typically is used where the charge is less serious and the scheduled bail amount is comparatively low. Where a bail schedule is posted in the stationhouse or jail, a defendant may be able to obtain very prompt release, should he be carrying enough money to pay his bail. He can recover, once he makes his required court appearances. Assuming the defendant can raise the money, cash bail is an option even where the amount is higher.

Supervised release involves more frequent contact than "monitored O.R.," including face-to-face meetings as well as phone calls; typically, various conditions are imposed and supervision aims at enforcement of these; helping services are provided, as needed, in relation to housing, financial problems, health, employment or training needs, and such problems as alcoholism or drug dependency. At times the distinction between supervised pretrial release and pretrial diversion becomes blurred -- especially where one agency is responsible for both programs or a diversion agency is used as a resource in gaining services for a releasee.

At times percentage bond, cash bail, or unsecured bail may be a condition of supervised release, the combined elements making for a strong sanction in high-risk cases.

Supervised pretrial work release of course permits only partial release. It does not save confinement space, although less costly facilities can be used

than a high-security jail. Community costs are less than ordinary jailing both because the defendant usually makes some self-support payments to the detention authorities and is able to continue supporting his dependents, if any. In practice it is rarely used, although a few instances were encountered in the course of site visits. Related to this practice are court-authorized furloughs for detainees to permit their release in order to confer with defense counsel, visit their families, obtain medical treatment, or other such purposes.

Program Examples

To illustrate various modes of pretrial release, and as a prelude to discussion of decision-making and implementation, examples of contemporary practice in several jurisdictions are presented.

In each instance, a pretrial services agency, or the equivalent, exists to assist with decisions. The programs vary in a number of ways; among them they illustrate a variety of organizational arrangements and most features of pretrial release programs likely to be encountered. Only selected highlights of each program are presented, the purpose being to illustrate the range of practices and administrative arrangements. Generally speaking, details on staffing and costs are omitted. Data collected were synthesized and are presented in summary or model form in Volume 5.

Brooklyn. The Vera Institute of Justice operates the Brooklyn Pretrial Services Agency. All arrestees in Brooklyn are brought to a central booking center in a building which houses the criminal court (limited jurisdiction). Those not "cited out" by the desk sergeant (majority of misdemeanants are) are seen promptly by an Agency staff member, there being round-the-clock coverage. Non-monetary releases are recommended in a series of "waves":

1. Release on O.R. is recommended wherever the individual meets criteria as determined by interview and a verification process.

2. Those not recommended or released at first appearance may be recommended for O.R. by the following day, as verifications are completed or new favorable information is developed.

3. Where O.R. is still denied by the court after full investigation, the Agency seeks to arrange for third-party release - release to custody of a reliable person known to the defendant or to a selected volunteer.

4. If third-party release is not recommended, or is denied, the Agency further screens the individual and may recommend release to its own direct supervision. This program is reserved so far for felons who have been remanded to the Supreme Court (felony level trial court).

NOTE. O.R. releasees are monitored. Reminders are sent of court appearance dates. Court appearances are verified, and immediate efforts are made to locate any absentees and prevail on them to report immediately to court. These procedures were found cost effective by the City's Budget Bureau staff, as were the Agency's screening function, third-party, and supervised release programs. This was in terms of detention costs saved and low failure rates on the part of agency-recommended cases.[4]

The Brooklyn program is one of four operated in New York City boroughs by the Vera Institute. The central management component operates a computerized information system which appears to be ideal for a populous jurisdiction.[5]

Indianapolis. The Pretrial Services agency of Marion County Municipal Court evolved from a demonstration program initially housed administratively in the Indianapolis Law School. Among significant differences from the Brooklyn program are the following:

1. Staff are part-time law students who work 15 to 20 hours a week. This permits round-the-clock coverage of the jail at lower costs than with full-time salaried employees.

2. Experienced interviewers in their senior year of law school are appointed bail commissioners. They have authority to release misdemeanants on recognizance without referral to court - greatly expediting the time required for decision-making. (In New York City, it should be remembered, desk sergeants have similar authority - that is, they may issue citations in most misdemeanor cases. Where this is not done, however, the decision to release requires judicial action.)

3. The bail commissioners may recommend O.R., conditional (supervised) release, or reduced bail - that is, less than that provided in the bail schedule. In addition they refer arrestees for indigent defense services, supplying the court with data on which to base a decision. More recently they undertook initial screening of arrestees for drug-dependency services -- relieving the local TASC agency of this function and eliminating duplication of work by the two agencies.

4. From the outset the agency has been dynamic and innovative -- adding new features and options and expanding its capacity to meet the needs in this community. At the time of our visit (August 1975) it appeared likely that the option of "10% bail" would be added to pretrial release alternatives. It was estimated that the 1% administrative charge for this service might produce sufficient revenues to underwrite the costs of agency operations.[6]

Charlotte, N.C. Mecklenburg County Pretrial Services is another agency which appears to be dynamic and successful in fostering liberal use of non-monetary pretrial release without consequent higher failure rates. This was documented in a comprehensive evaluative study covering all forms of pretrial release in the county over a three-year period.[7]

Some degree of contact is maintained with all persons approved for O.R. by the court or by magistrates (see below). This is scaled to the risk level presented by the defendant and may range from a monthly phone call to weekly (or oftener) personal appearances in the agency office. Court appearances are verified. Absentees are promptly sought out and persuaded to report to court. Where the releasee absconds or persists in evasion of court, the agency prepares an arrest warrant for the court's issuance.

A well-designed (and recently enlarged) booking center includes interview rooms for agency staff members assigned to interview arrestees. Interviews are conducted immediately after booking. A magistrate is on duty round-the-clock with his office adjacent to the booking center. The magistrate has authority to release misdemeanants on O.R., which he does in accordance with recommendations of pretrial agency interviewers.

This agency operates under the general supervision of the county executive.

San Jose, California. The Santa Clara County Pretrial Agency functions under a policy board, composed of Municipal and Superior Court judges. Its operations and performance have been carefully evaluated and reflect significant accomplishments in reducing jail population without occasioning high failure rates on the part of releasees.

Misdemeanants are screened by arresting officers or police agency desk sergeants before being booked into the jail, and substantial numbers are cited rather than being booked. The booking sergeant at the jail, under California law, also has authority to issue citations in misdemeanant cases. In this county (as in some others) the pretrial agency interviewers see the misdemeanants, verify the essential facts gained, and recommend appropriate action to

the booking sergeant, who carries out the recommendation in practically every instance.

In felony cases where R.O.R. appears suitable, interviewers promptly contact a "duty judge." This can be done at any time of the day or night, any day of the week. As a result of this procedure detention time in such cases was cut from an average of two or three days to 6 hours.

Supervised release was added to available options in the county about two years ago, and an evaluation determined that it had further reduced jail detention rates. Failure to appear rates were no higher than for "regular" O.R. cases, although arrests on new charges were somewhat higher. In addition, a number of benefits for releasees were documented, including, for example, increased rates of employment or participation in job training.[8]

Washington, D.C. The D.C. Bail Agency is an independent agency within the District of Columbia municipal government. It serves both the D.C. Superior Court and the U.S. District Court. It is one of the pioneer pretrial release agencies and has tested out a wide variety of practices. It monitors and supervises not only "O.R." and conditional release cases but persons released on percentage bail. It makes extensive use of private social service agencies and "self-help" groups in relation to third-party release.

As in Santa Clara, its interviewers make recommendations as to citation in misdemeanor cases to law enforcement officers; the arrangement is unique. Metropolitan Police officers ordinarily take arrestees to the nearest precinct station. In cases eligible for citation the desk sergeant calls the Bail Agency, supplies the available facts, then puts the arrestee on the phone for an interview. Following the verification process, the interviewer calls back with his recommendation as to citation release, and ordinarily this is accepted and acted upon by the desk sergeant.

Recently the agency has experimented with a mobile field unit, which can be contacted by radio. The unit's functions are diverse -- from helping to verify facts in the case of a newly arrested person, to contacting absentees from court, or making supervisory or service contacts with or concerning persons on conditional release.

This agency, like those operated in New York City by the Vera Institute, has been deeply involved in the history of bail reform. It was first established in 1963 as the D. C. Bail Project of Georgetown University Law Center with a Ford Foundation grant. In 1966 an Act of Congress made it a public agency of the District of Columbia government. It underwent major expansion in 1970 after being swamped as a result of effects of the Federal Bail Reform Act of 1966. This Act was designed to encourage and facilitate non-monetary pretrial release. It introduced the concept of conditional release and also included a provision for use of percentage bail, at the discretion of the judge.

Experience with conditional release has been mixed. On the one hand, it led to a large increase in non-monetary pretrial releases without a comparable rise in failure to appear rates (e.g., failure rate in 1973, 8.2%, was a bit under the estimated national average in 1971 of 9%). At the same time judges impose one or several conditions in a very high percentage of cases. At times these are not germane either to the primary issue of court appearance or to prevention of further crime. They impose undue burdens on both the defendant and the agency. This is especially frustrating when reported violations are not sanctioned by the court. Over time, in a situation like this, agency staff learns to use discretion both in enforcement efforts and in reporting violations; a better solution would be more selective imposition of conditions.*

* The situation is closely comparable to use of special conditions in imposing suspended sentence or probation. The subject is dealt with more fully in Volume 4.

As in Indianapolis, the agency was at the outset staffed primarily with law students -- some working full time and going to school at night, with night and week-end coverage assigned to part-time workers attending law school during the day. More recently graduate students in criminal justice areas or social work have also been employed, as well as some persons who are not students. Staff totals 53 persons under a five-man management and supervision group. The 1975-76 budget was $900,000. With an average caseload of 400 the annual per capita cost is about $225. Since the average stay runs 3.6 months, the cost per case is about $60 -- including all screening activity, intake supervision, social services, and case termination. This is undoubtedly higher than for agencies with a lower percentage of supervised release cases.

In dealing with the court (non-citation cases) the agency makes one of three classes of recommendations: (1) release with no condition other than to keep the agency posted as to address or job changes; release with condition of reporting regularly to the agency; third-party release; (2) no recommendation; (3) preventive detention hearing (infrequently made and rarely carried out e. g., 60 times in five years). All recommendations are for non-monetary release, but the courts frequently impose unsecured bail and occasionally percentage bail as a condition.

To assist releases with emergency problems or conditions calling for specialized services, the agency has a small social services unit. About one in fourteen releases are referred to the unit (720 referrals in 1973). One of its responsibilities is liaison with numerous private agencies used for third-party release. These include some organizations which provide residential care and treatment for alcoholics and drug dependent persons -- for whom residential treatment is sometimes a condition of "release." That is, in effect, they are confined, with their own agreement, in a treatment center instead of jail.

Failures to appear or suspected abscondings or condition violation are quickly noted by a "Failure to Appear" unit. This staff takes a variety of steps both to assure court appearance and to arrange for continuances without prejudice where there is a valid excuse for tardiness or failure to show.

The agency has an excellent, detailed manual, which would be especially appropriate for a similar large-scale operation.[9]

El Paso, Texas. The tri-county Regional Probation Department in El Paso demonstrates possibilities of an integrated court services program, covering areas from pretrial release and diversion screening to probation supervision.

In the pretrial area, the agency screens arrestees and recommends release on "personal bond." This is a form of non-monetary supervised release, as used in El Paso. Supervision varies from a requirement of infrequent phone contact to frequent reporting in person, depending on the assessed risk level and need for services. Supportive counseling and referral services are provided, where indicated, much as for probationers. All releasees are reminded of court appearance dates and appearances are verified. In the event of failure to appear, the unit makes investigations, obtains warrants as indicated, and may make arrests. (For description of a program we were unable to visit which stresses the apprehension function -- and is a generally outstanding program -- see Wayne Thomas' comments on the Philadelphia pretrial services agency. Page 222 in book cited in Note 2, Chapter I.)

Texas law provides that where an individual is released on personal bond on the recommendation of a "personal bond office" the court must assess a fee of $10 or 3% of what monetary bail would apply in the case, whichever is greater. The fee may be waived or reduced at the court's discretion. Fees must be used to finance expenses of the office and to defray costs of extraditions.*

* Section 17 of Texas State Code of Criminal Procedure as amended by enactment of House Bill 762 in 1973.

The probation unit's recommendation covers the issue of the amount of fee, if any. Collection of the fee is part of the supervision process.

(The office also collects or records other payments by criminal defendants -- probation fees similar to personal bond fees, fines, court costs, restitution, family support -- using a computerized information system to handle much of the detail. Personal bond and probation fees cover almost half of the costs of operation of the probation department.)

In addition to pretrial release, the unit screens arrestees as to eligibility for indigent defense and refers appropriate cases to a pretrial diversion agency (which initially was also a unit in the probation department).

Within the unit also are lodged the functions of pre-sentence investigation and investigation of alleged or suspected instances of probation violation (freeing up regular probation staff for service-oriented supervision).

Housing so many functions in one agency -- while permitting economies and a promising division of labor -- might result in an oversized, bureaucratic organization in a very populous jurisdiction. The El Paso department is small enough, however, that close, informal relations can be maintained and, judged by a few days' observation, maximal value derived from a comprehensive, functionally designed program. Full-time staff totaled only 24 in 1975; in addition there were ordinarily a number of part-time student workers, unpaid student interns, and volunteers to assist with the work. Average total caseload -- all categories of cases -- runs about 2,000, but classification procedures permit concentration of staff effort on a minority of high-risk cases or persons needing extensive service.[10]

McMinnville, Oregon. McMinnville is the seat of Yamhill County (city population in 1970: 10,125; county population: 40,213). A program there illustrates possibilities for rural counties. It was initiated in 1974 as one component of a tri-county, LEAA-funded project. The other two counties

are Marion (population in 1970: 151,309 - Salem, the state capitol, is the county seat) and Polk (population in 1970: 35,349). The three counties constitute Oregon Planning District No. 3 (one of 14 such districts in the state). Planning services for the District are provided by the staff of District 3 Council of Governments.

The LEAA grant was to the council; the regional project director is employed by the Council and has line management authority over the staff. Staff, however, are dispersed to the three counties and as a day-to-day matter work under policies and practical control of the district and circuit judges. There is a prospect that when the original grant expires, the separate counties may pick up their respective components, and regional features of the program may be left mostly to cooperative arrangements for sharing facilities and use of regionwide community resources. Program survival, in one way or another, however, appeared quite likely as of the summer of 1975.

The McMinnville unit has a three-man staff: a probation officer, a pretrial release officer, and a jail counselor, who has general responsibility for resource mobilization, volunteer recruitment, and work release program management.

The probation officer supplements the work of state probation and parole staff, with whom he shares office space. In effect, he relieves state officers of responsibility for services to the lower courts in misdemeanant cases. The result has been expanded services, since the state agency has always given first priority to felony cases in the Circuit Court.

The release officer screens arrestees. Under delegated authority he approves release on O.R. of eligible misdemeanants. He recommends O.R. to the District Court in felony cases. At times when a large number of cases have

accumulated, notably Monday morning, the jail counselor and/or probation officer help out. They also provide relief when he is ill or otherwise off duty. In this way, it is possible to maintain 5-day pretrial release service continuously through the year and keep up with peak admission loads. The three staff members collaborate also in resolving problems of releasees who are stranded or otherwise in need of services to get along in the community.

The presence of several educational institutions in the region, including a law school and a major criminal justice degree program - undergraduate and graduate - gives promise of expanded coverage in the pretrial release area through use of volunteers, student interns, work-study participants, etc.[11]

Berkeley, California. The Berkeley program represents another approach to providing pretrial services in a jurisdiction with a comparatively small population. It is especially useful as a model for small or medium-sized cities in which universities are situated. Heavy reliance is placed on student volunteers from the University of California at Berkeley.

The program has been in operation since November, 1970, and was initiated by students, working through the University's YMCA branch, Stiles Hall. Various private foundation grants financed the program during its first four years, but it is now fully funded by Alameda County through a contractual arrangement, with a 1975-76 fiscal year budget of $64,000.

The program serves two Alameda County communities, Albany and Berkeley, which represent the jurisdiction of one division of the Alameda County Municipal Court. (In California so called "municipal courts" are actually county based; they represent the lower of an essentially two-tier court system.)

Arrestees who are not "field cited" are delivered to the city jails in Albany and Berkeley and held there until first appearance before the Municipal

Judge. Agency interviewers are present in each jail early each week-day morning. Reports of their interviews and verification efforts are supplied to the judges.

Those released are reminded by phone the night before each scheduled court appearance. Court dockets are checked daily. If a client fails to appear, persistent efforts are made to locate him and persuade him to appear voluntarily before a warrant is issued or executed.

In addition to these services, the agency arranges acceptance of drug dependent arrestees by residential drug treatment centers as a condition of pretrial release. This is done in collaboration with representatives of the centers and, of course, requires affirmative action by the judge.

The agency interviews about 60 arrestees a week. Judges grant about one-fourth of them recognizance release (about 45% felony cases and 55% misdemeanor). In addition about 20% of the interviewees receive bail reductions. Another 20 to 25% either make bail on their own or have their charges dropped before court appearance.

Bench warrants for failures to appear run about 5%, compared to a reported national average rate of 9%.

Students are recruited, trained, and supervised -- and other administrative and specialized tasks performed -- by a four-person paid staff. Four students are paid (work-study program) who work on the average 15 hours a week. Most of the work of jail interviewing and contacting pretrial releasees in the community is handled by unpaid student volunteers. Fifteen to twenty students work an average of one day a week in the program for at least one school year. They are primarily in training status during the first quarter. Students receive college credit for this work and training.[12]

Sacramento, California and Albuquerque, New Mexico. These represent situations where jail staff handle "ROR" screening - as opposed to pretrial release, probation agency, or other staff not under jail administration.

In Albuquerque three detention facilities once operated by the City Police Department and the Sheriff are now under administration of a City-County Corrections Director. The main (former county) jail is the primary pretrial detention facility. The jail has a staff of five counselors who perform a variety of social service tasks, including emergency services, referral to diversion agencies, release planning, and administration of a work release program. One of their functions is to interview unsentenced prisoners, on admission, and recommend ROR to the judges. They give this function top priority, interviewing all unsentenced prisoners booked into their main jail and supplying reports to the magistrate on all who do not "bail out" before first appearance.

In Sacramento a staff of six "classification officers" perform somewhat similar functions. They are uniformed, sworn deputy sheriffs, however, and reflect more of a law enforcement orientation than social service.* Practically all of their time is tied up in the admission process, and they have significant authority in their own right. They may, for example, and in a majority of cases do authorize release without prosecution of arrested public inebriates. They exercise authority to issue citation releases in misdemeanant cases. They screen all others and make recommendations as to ROR or bail reduction to judges. There has recently been some extension of the duty judge arrangement in Sacramento, so that some persons requiring court approval for pretrial release can gain this without awaiting court appearance. In addition to these

* As this is written, consideration is being given to having these officers dress in civilian clothing as an aid in establishing rapport with interviewees.

functions, classification officers also make decisions or advise on cell assignments and provide limited social services and release planning assistance to jail prisoners. Work release is located at a separate facility and administered by another staff unit.[13]

Decision-Making

Traditionally, the decision on pretrial release (essentially, setting bail) was first a matter for a magistrate--- be he a justice of the peace, municipal or other judge with limited jurisdiction, or a higher court judge. Once bail was set, it was up to the defendant to raise the cash or security or to try to arrange with a professional bondsman to furnish security, for a fee. The bondsman was free to do so or not, in effect sharing the court's power to decide on pretrial release.

The judge's information when setting bail included whatever the arrest report or arresting officer told him, the defendant's own statements in court, plus facts and arguments which the prosecutor or defense counsel, if any, might present. With a high volume of initial appearance cases and pressure of other responsibilities, the judge ordinarily could not devote much time to the average case. Decisions had to be made quickly, on the basis of a few facts and impressions, and with the choice pretty much limited to various amounts of monetary bail.

Such custody hearings would usually occur one to three days after arrest -- but often much later, especially in felony cases, if the prosecutor was slow in filing charges.

Under these conditions, it was not unusual for a majority of arrestees to be held until final disposition and for most of the others to spend from

a few days to several weeks in jail before gaining pretrial release. It was not unusual, at the same time, for affluent arrestees, including professional criminals, to obtain release fairly readily and often quickly, while impoverished defendants languished in jail. Overall, there was little to guarantee that the best decisions would be made.

This cursory review is suggestive of the issues involved in improving the decision-making processes involved in pretrial release -- issues on which the bail reform movement has focused over the past 20 years. Among the obvious needs are:

- Recognition of a right to prompt pretrial release under conditions which are reasonable and fair in the individual case;
- More options;
- Explicit policies and criteria for choosing among options;
- Sufficient, reliable information in individual cases;
- Arrangements to assure prompt decision-making.

(In addition there must be assurance that decisions will be implemented promptly and faithfully and that the court will be kept advised of developments that may call for further action. This concern is dealt with below.)

Options. Possible options or alternative modes of release have already been defined and illustrated and do not require further discussion here. (See "definitions," starting on page 33 and example programs in the sub-section preceding this one.)

Release Policies. The state constitution may contain provisions affecting pretrial detention. Statutes typically will authorize refusal of bail in a capital case, at least where the evidence appears convincing; provide definitions and guidelines on various forms of bail; authorize release on

recognizance and use of citation in lieu of arrest (the last, usually, in misdemeanor cases only). Development of bail schedules by the courts may be authorized or directed. And authorization of various officials to accept bail and order release of a defendant may be provided. Sanctions are usually provided in the event of a defendant's failure to appear; this may include making such a default a separate crime.

Oregon's statute is one of the most recent and progressive, in terms of the National Advisory Commission's recommendation. It prescribes use of the least interventionary mode of release sufficient to assure the defendant's court appearance. It provides for police issuance of citations not only in misdemeanor cases but in those lesser felonies where the law allows reduction to a misdemeanor at the court's discretion. It provides for release on recognizance, conditional release, and release on percentage bail -- and seeks to eliminate the practice of bail through resort to a professional bondsman.[14]

A Kentucky statute, which became effective June 20, 1976, is similar in its provisions; it specifically outlaws the professional bail bondsman and goes beyond some statutes in specific constraints on amount of bail in some cases.[15]

State laws generally leave wide discretion to the judiciary in establishing specific policies, preparing bail schedules, and, of course, in making individual case decisions.

Within broad statutory limits, policies can be as diverse in a jurisdiction as there are officials with power to set bail or otherwise authorize pretrial release. On the other hand, especially with a unified court system, an orderly set of policies may exist which assures a reasonable level of fairness, consideration of community interests, and consistency.

Policies address such issues as -

- Authority to order release under particular circumstances;
- Responsibility for making pretrial release recommendations and obligation of law enforcement agencies, jailers, and others to cooperate with those charged with the responsibility. Extent of confidentiality guaranteed to defendants as to information they provide to pretrial release agencies;
- "Duty judge" arrangements, if any (see section below on "prompt decisions");
- Specifics of alternative modes of release -- conditions, supervision arrangements and levels, responsibility for implementing decisions, including investigation of apparent failures and apprehension of defaulters;
- Schedule of standard bail amounts by offense category;
- Criteria to be used in making pretrial release decisions, including setting of bail or imposing special conditions in individual cases;
- Definition of failure to appear and use of sanctions where defaults occur;
- Proper course of action in the event of re-arrest on a new charge.

Bail Schedules. A special word is in order on the pros and cons of establishing bail schedules. On the one hand, there is the argument that bail should be based on circumstances in the individual case, not on the crime which happens to be named in an arrest report. The chief argument for a bail schedule is that it can permit and expedite release prior to arraignment for those who can make bail. Another is that a bail schedule assures some level of

consistency in setting bail amounts -- without necessarily preventing the use of higher or lower figures by the court where individual circumstances warrant. It favors the more affluent arrestee -- where the jailer is authorized to release people in accordance with the bail schedule. If alternative, non-monetary modes of release are available, and release is possible within about the same average time as pre-arraignment bail permits, this element of discrimination may of course be reduced.*

Selection criteria. Certain factors are very commonly used in establishing criteria for pretrial release. These include:

- The offense level and seriousness of circumstances; weight of the evidence;
- Length of residence in the community and evident strength of ties with law-abiding persons;
- Employment status and record of the defendant;
- The extent of prior criminal record;
- Record of prior failure to appear or escape;
- Evidence of alcoholism or drug addiction;
- Existence of other charges or warrants or the fact that the person is already on probation, parole, or pretrial release from previous charge.

There have been some research efforts to identify factors which will predict pretrial release failure. Of the above items, those which have shown up with some consistency as predictive of failure are extent of prior criminal record; employment record (e.g., whether defendant was employed at time of arrest); and evidence of drug addiction.[16]

* There is some sentiment among pretrial release agency administrators and others concerned in favor of abolition of money bail.

Strict adherence to these limited criteria, however, will deny release to many people who would not fail. In other words, given a record of several prior arrests combined with the circumstance of unemployment, perhaps 25 or 30 releasees out of 100 would fail to make a court appearance or incur an arrest on a new charge in the interim. If all such persons were denied release, the majority would have to suffer for the prospective defaults of the minority.

Common sense -- with limited support from research -- tells us that certain people would be high failure risks, e.g.:

A young single man, transient, unemployed, with no strong family ties, charged with a property offense in which he was caught red-handed, with a prior record of several arrests, an escape history, probably wanted in another jurisdiction, and a history of frequent heavy drug use.

Contrastingly, others are obviously good risks, e.g.:

A local business or professional man, with an intact family, no prior arrest history, charged with drunken driving.

As the examples suggest, criteria commonly used discriminate against nonresidents, the unemployed, the unattached or homeless, and persons caught up attitudes which favor the local middle-class resident. In addition, among persons with criminal records, bail favors the better off, more professional criminal and disfavors the inept or petty offender.

Thus in using objective criteria to help determine suitability for pretrial release, it is important to keep in mind (1) that case information may indicate a high risk level but this is by no means an infallible prediction of failure; (2) that the criteria are likely to include a built-in bias against people who are already disadvantaged in various ways by their social and financial circumstances. Rigid exclusion of people from release on the basis of these criteria will mean that many who would not have failed will be detained.

One way to reduce the dilemma is to provide a sufficient range of options as to make possible non-monetary release of "higher risk" cases. The presence of negative factors then can be used to set conditions and supervision level rather than to deny release. Ideally, the risk can be further reduced by priority scheduling of such cases for court processing. Moreover, where continuing contact with a releasee so indicates, strict conditions originally imposed can be modified.

Individual Case Information. Increasingly across the country formal arrangements are being provided to collect and verify information for use in pretrial decision-making. Typically, these take the form of a pretrial services agency or unit within some existing agency (as illustrated by examples provided earlier). In very low population areas, this may not be necessary, since the magistrate may have personal knowledge of most persons arrested. In jurisdictions where this is not the case and the volume of cases is at all high, the court can use help with this task. Where to draw the line in providing for new special services involves combined issues of fair treatment and cost effectiveness.

Point System. Many agencies either base their recommendations to the court on a point system or simply advise the court as to the defendant's "score," with the court ordinarily granting recognizance release if this is above an established cut-off point. Scoring systems can be fully objective or can allow the interviewer to add or subtract points on the basis of personal impressions or of information which he considers relevant but is not covered by items on the interview schedule.

Other agencies -- especially where these are within a probation department -- follow a more subjective approach. They consider all the same facts, plus more, required by interview schedules, but allow quite a bit of discretion to the interviewer.

Among arguments for the objective method (point system) is that it assures fair and impartial treatment, minimizing the factors of the interviewer's biases and personal reactions to defendants. Some also maintain that it results in more frequent positive recommendations. As a matter of fact, in some situations adoption of the point system has been associated with increased releases. On the other hand, evidence for this is not fully consistent. The point system appears to be a sound approach where interviewers are not trained, experienced correctional workers.

These comments are based on discussions with numerous agency people as well as personal experience of project staff in correctional decision-making. For a further review of issues and some related research findings, see"Bail Reform in America," page 146(first cited in Note 2, Chapter 1). See Appendix B.

Prompt Decisions. Pretrial release studies reflect a correlation between the speed with which decisions are made and the number of releases resulting. This is especially so in relation to non-monetary release. Arrests may be made at any time; they tend to cluster during the night hours and on weekends. If prompt release is the goal, this means round-the-clock arrangements for interviewing arrestees, checking their records, and verifying other facts as to their background and circumstances.

Given such an arrangement, either the court must be available more or less round-the-clock or authority to approve release must be delegated to some agency that is.

Where a bail schedule is used, the jailer may be authorized -- by statute or court order -- to accept cash bail, deposit on percentage bail, or the security offered by a licensed bondsman.

Authority to release without monetary bail may be limited to police citation. In California the citation statute is also used to release misdemeanants after they are booked into jail; the law gives citation authority to the booking officer and his superiors. The booking officer, in turn, may rely for guidance on pretrial release agency interviewers.

In the Oregon law mentioned earlier there is a provision empowering the courts to employ representatives to screen arrestees for pretrial release; it further provides that the presiding circuit judge may delegate authority to the representative to approve release. A limited survey found that such delegation so far is apparently limited to authority to release misdemeanants on their own recognizance.

It is conceivable that police agencies, jailers or other court representatives, with training and clear guidelines, could be authorized to approve recognizance, third party, or supervised release for both felons and misdemeanants, but it is unlikely that this would ever fully meet the need. The more sensitive cases would no doubt still be referred to the court, and those denied release -- or objecting to conditions -- would have to be free to appeal to the court.

The alternative to delegation -- in order to expedite release -- is court availability. In a handful of jurisdictions courts operate throughout much of the day and night seven days a week. In a few, courts are in operation ten or twelve hours a day six or seven days a week and on holidays. Such arrangements are feasible in populous communities with large number of judges.

A somewhat more common -- and generally more feasible -- arrangement is the "duty judge." Judges are available on a rotation basis to make pretrial release decisions throughout the day and at night and on weekends. During non-business hours interviewers call them at home, or elsewhere by pre-arrangement,

usually after accumulating a number of recommendations. Ordinarily, calls in the middle of the night would not be made, but coverage from early morning to late at night is frequently provided.

Services to Implement Decisions

In general, these have to do with orienting the releasee to his obligations, any special conditions, and services available to assist him with problems. They may include various arrangements for maintaining contact with him, verifying his court appearances, and monitoring his compliance with conditions. Also included may be prompt investigation of failures to appear or the circumstances of new arrests and making appropriate recommendations to the court. This may extend to efforts to locate tardy persons or willful defaulters and persuade them to report to court and even to making arrests where persuasion fails.

Typically such services would be performed by the same agency which screens arrestees and makes the initial recommendations as to release. As has already been indicated, there is a strong conviction on the part of pretrial release agency officials, and some supporting research evidence, that a comprehensive program of implementation services helps maintain an acceptable rate of failures to appear and re-arrests. With such a program available more liberal release policies tend to prevail. Resultant savings in detention costs (especially in eliminating the need for costly jail replacement or expansion) may offset program costs.

For more detailed discussion of program implementation services see Appendix B.

CHAPTER IV

COLLECTING AND ASSESSING PRETRIAL RELEASE DATA

Appendix B reproduces a pretrial release program manual, covering operational issues and procedures in detail, including sample forms.

Whether or not the procedures and form suggested in the manual are used, it is essential that pretrial release agencies keep accurate records covering characteristics of arrested persons interviewed; decisions made as to detention, form of pretrial release, or other dispositions; notable services rendered; and outcomes. Outcomes would include removal from program because of re-arrest on a new charge or for failure to appear, number of successful appearances, final disposition of original charge, and the person's circumstances at time the case was closed.

It is preferable that this information be recorded in such a way as to facilitate periodic tabulation of statistics. Such statistics would reflect activities of a particular (pretrial services) agency. In addition, the agency or some agency in the jurisdiction should routinely collect and regularly disseminate statistics which show total criminal complaints leading to summons or arrest in the jurisdiction; jail bookings; instances of pretrial detention and of each of the various alternatives to this; and final dispositions. This subject is dealt with more fully with specific techniques suggested in Volume 5, Chapter I. The focus is on how arrests and dispositions affect jail population, but the procedures and data formats can be adapted to other program areas.

It should be possible for criminal justice officials of a given jurisdiction to say that X% of all defendants are summoned, cited, given this or that form of pretrial release, diverted, or detained until final court action (or prosecutor decision not to proceed).

Changes over time in the percentage figures could be related to subsequent developments including the effects of policy changes or introduction of new programs or practices. Were such figures reported for most jurisdictions, the possibility of developing quantified standards for pretrial release would be greatly enhanced. As matters stand, jurisdictions are pretty much alone in assessing their pretrial release rates. Some national data have been published, but there are problems with relating these to a given jurisdiction's figures.

In addition to release and detention rates, it would helpful for jurisdictional authorities to have some backdrop against which to measure pretrial release failure rates. Again, although quite a bit of information has been published, there are definitional problems, and other factors, which render these data of limited value for quantitative standard setting on failure rates.

National Pretrial Release Rates

The essential reasons for limited comparability of published pretrial release rates are that too often only partial data are available and the percentages quoted may relate to different bases (all arrests, all but certain excluded arrests, all persons interviewed by or recommended for release by a particular agency, etc.). By partial data is meant data only from one court in the jurisdiction, the number released to a particular pretrial services agency, or number receiving a particular form of release and not others, etc.

Where presumably comparable figures are available, the range in pretrial release rates is almost unbelievably wide. A recently completed national study (covering a sample of twenty jurisdictions) found release rates for felons ranging from 37% to 87% and for misdemeanants from 40% to 99%. The averages were 67% for felons and 72% for misdemeanants.[1] In our own study we found

pretrial release rates for all cases ranging from 17 to 61% in 21 jurisdictions (a few overlapped with above) but our computation base differed. We used all forms of pretrial release as a percent of all reported arrests. The other study used release as a percentage of charges filed by the prosecutor. Median for our agencies was a low 36%.[2] An earlier national study found that an average of 61% of arrestees in 72 cities were granted pretrial release.[3]

Such figures, in addition to the wide ranges, are not too helpful in seting a quantified standard because they lack the detail to account for variations from one community to another in use of summons or of citation instead of arrest; in the proportions of felons and misdemeanants among arrestees; in other variations in arrest charge patterns; in the percentage of "enroute" or "no prosecution" cases among jail bookings; in variations in overlap between pretrial release and diversion; in the extent to which misdemeanants especially proceed to an initial hearing within a matter of hours during which final disposition of charges is accomplished; and in unpredictable variations in the number of detainees with serious "holds" against them.

Early Dispositions. Wayne Thomas was able to explore some of these issues in a scattering of jurisdictions. As an example, he found that if all felony arrestees were counted, the pretrial release rate for felons in Washington, D.C. (1971) was 69%; if cases not filed on by the prosecutor or dismissed at initial hearing are omitted, the rate goes to 79%.[4]

Some jurisdictions' felony arrestees often may be in custody, at most, a day or two before appearing in court. Where prosecution is dropped by or at that time, the issue of pretrial custody is qualitatively different from cases where prosecution goes forward and the defendant may be locked up for months.

The situation is more involved with misdemeanants. In some communities the average misdemeanant arrestee may be in court in a matter of hours -- and

final disposition of his case completed: plea of guilty and sentence; charges dropped or dismissed; even, perhaps, a non-jury trial with verdict and sentence. In most jurisdictions a significant number of misdemeanant cases are disposed of at or by the first hearing (as an extreme example, Detroit, 1971, 67% of cases).[5] This may not always be within a matter of hours, however. If arrest occurs on Friday, in most jurisdictions, first appearance will not be before Monday.

Charge Reduction. Complicating the issue of pretrial release rates are differences in the rate of reduction of arrest charges by the prosecutor. This can be low or high, depending largely on two factors: (1) Over-charging, poor documentation, illicit search and seizure, or other weaknesses in arrest policies and practices by police; (2) work-load pressures on the prosecutor's office affecting the rate of charge reduction as a result of plea bargaining.

In any event, if felony arrests frequently eventuate in misdemeanor charges, higher pretrial release rates would tend to be associated with this. Bail would be lower; jailer citation authority could be exercised; and, in general, more liberal pretrial release policies would prevail.

Implications. Part of the assessment of the prospective value of new or expanded alternatives to arrest and detention involves examination of the "attrition rate" -- that is, the dropping, reduction, or dismissal of charges -- and the speed with which first appearance in court occurs. If the National Advisory Commission's standards were observed (maximum of six hours from arrest to first appearance)[6] the issue of pretrial release would be less important in a great many cases than it is presently in most jurisdictions.

One of the outcomes of our study was the realization that development of national pretrial release norms, on an empirical basis, would involve so many variables as to render the task prohibitively costly. Account would have

to be taken of differences in definitions of crimes in general and of felonies and misdemeanors; differences in crime and current rates; differences in use of summonses, citation, and all other alternatives to pretrial detention; differences in "attrition" rates of arrests and in speed and rate of disposition of misdemeanant charges and in other matters, including how many jail bookings were of "en route" cases or other "boarders."

Consideration of so-called "national" rates or rates in other jurisdictions in assessing pretrial release in a particular jurisdiction must be done with caution. The base from which rates are figured must be known.

At the same time, these considerations point up the fact that the urgency of pretrial release will be greater or lesser depending on how promptly criminal charges are ordinarily disposed of in a jurisdiction. The route to more humane and possibly less costly administration of justice -- in the pretrial area -- is not just through more liberal release policies. Expedited processing of cases is equally important. This cannot be at the expense, however, of individualization. Summary dispositions on the basis of flimsy information do not represent justice, and in the long run are not economical, because they only generate a high appeal rate.

Setting Local Goals and Standards

A local jurisdiction can set just about any goal as to a pretrial release rate - and find other jurisdictions operating at approximately that level. Actually norms have to be generated out of local experience: What is desirable and feasible, given local circumstances?

Productive goal-setting will entail several processes:

Collection of facts and figures on current policies and practices in the area of pretrial detention and use of alternatives;

assessment of practices; joint agreements on policy issues, objectives, and related procedures among criminal justice agencies serving the jurisdiction; support of local (and perhaps state) general government, especially if any change is needed in statutes or ordinances, administrative arrangements for delivery of new services, shifts or increases in agency budgets; cooperation of community resource agencies in relation to services for indigent or problem-ridden defendants; community interest and readiness to accept policy changes or new programs.

Assessing current practices has three aspects: (1) What are the expressed policies and decision-making criteria of agencies in relation to pressing criminal charges; the use of pretrial detention and its alternatives; deadlines for completing steps in criminal justice processing? How do policies square with standards against which they can be measured? (2) How faithfully are these policies carried out? (3) How cost effective are present practices?

Policy Assessment

Assessment of policies, initially, can be against any of several sources of standards - state constitutional provisions or the intent section of relevant statutes, controlling court decisions or orders, or the state's standards and goals for criminal justice.

Policy assessment issues include whether or not explicit and sufficiently complete local policies exist on law enforcement priorities and use of pretrial detention and alternatives; how these compare with the standards referred to for guidance; and the level of consensus or, conversely, extent of disagreement on policies among criminal justice agencies.

Assessment of criteria is a matter of determining their relevance to policies. Criteria can serve to distort policies. They may be vague or frag-

mentary and leave too much leeway to decision-makers. They may be overly specific and rigid, leaving too little room for application of policy to unique situations. They may lack consistency. Or they may have been derived, at least in part, from a source other than expressed local policies. This can happen if criteria are "borrowed" from another jurisdiction without careful reflection on how well they express local policy commitments.

A study of local policies and decision-making criteria can be as informal as a meeting among representatives of local criminal justice agencies where these matters are discussed in an organized fashion. Or it can take the form of a questionnaire survey or series of structured interviews, along with review of written regulations, guidelines, inter-agency agreements, etc. which set forth policies or criteria.

Policy Implementation

Whatever the expressed policies and criteria, they may or may not actually control what happens in the jurisdiction. Checking this is probably most readily done by an analysis of pretrial jail population against arrest data. Chapter 1, Volume 5, offers guidelines on such studies.

In addition to suggested data collection and analysis procedures in Volume 5, one other step would be needed. This is an in-depth review of a sample of recently closed cases where the defendant was held in jail until final disposition. Answers to two questions, as these relate to existing policies, would be sought: (a) were people detained too frequently or, on the average, longer than policies specify? (b) were people detained who should have been summoned, cited, diverted, or granted some form of post-booking pretrial release?

Cost Effectiveness

The first two questions relate to issues of lawfulness, humanity, and administrative integrity or efficiency. The third has to do with the economics of criminal justice practices. Determining the cost effectiveness of current practices can be a complex undertaking. It entails answering such questions as -

(1) What do present policies imply in terms of short and long-run jailing costs?

Short-run costs would be, primarily, expenditures for consumable items, the use of which varies closely with jail population - food for example. Long-run costs would be estimated expenditures (a) for jail replacement or expansion; or (b) for added services to meet mandatory standards - if or when jail population exceeds presently rated capacity or the capacity of present staff and facilities to provide services at mandated levels.

A converse question would be: what could be saved, immediately, or during some specified future period, if jail population is reduced, or held at its present level in the face of increases in criminal complaints?

Corollary to this is what it would cost to reduce or contain jail population. This can range from little or no added costs for expansion of the use of summons and citation or adoption of a percentage bail system to costs higher than jailing, such as to finance a comprehensive program to provide care and treatment for public inebriates outside the criminal justice system.

(2) How to assess and value other costs attached to jailing -

- increased welfare costs, where an employed person with dependents is jailed? (what is the local frequency of this situation and what are the associated welfare costs?)

- costs to the economy from loss of such productive manpower (in relation to indirect economic effects as well as tax collection losses and reduced expenditures by the former wage earner)

- intangible costs for the jailed person and his family (especially where he was either innocent or his offense was such that a jail sentence is not deemed necessary or appropriate)

(3) How effective are jail and its alternatives in assuring court appearance and preventing the defendant from (further) crime in the community? (Obviously, barring an escape, jail "has the edge" over alternatives in these regards. The questions are: how less effective are the various alternatives? what level of failure is tolerable in relation to jail costs saved and other benefits?)

Determining the "social costs" of jailing (No. 2 above) is a time-consuming task and includes subjective elements not reducible to dollars. A jurisdiction may well elect to forego this task, simply recognizing that, in addition to jail cost savings, alternatives do provide important benefits to the community and to defendants. Predicting failure rates of alternatives (No. 3) is a conjectural process until a jurisdiction establishes "track records" for the various practices and programs. An approach to establishing, assessing, and predicting failure rates is presented below.

As to monetary and social costs of incarceration and several categories of alternative programs, these matters are reviewed further in Volume 5 in the light of findings from a recent national study.

Varying Impact of Alternatives

Without going into further detail here on costs of jail and its alternatives, two points need to be made:

(a) The introduction of new alternatives or significant expansions in existing ones will not produce one-for-one reduction in jail population for each defendant selected for an alternative. To some extent it may only affect the mode of release, with more people gaining a non-monetary release.

Moreover, although most people who are summoned, cited, or granted pretrial release will make their court appearances as scheduled and not incur new arrests in the interim, some will not. Re-arrest and detention on new charges or for failure to appear will reduce the effect of alternatives on jail population levels. Thus probable "failure rates" must be taken into account in estimating the impact of proposed changes. The fact that a person is re-arrested, detained, then acquitted would make the term "failure" a misnomer for him; at the same time, in terms of reduced use of jail, the initial decision to release him resulted in failure.

(b) The other point is that planning of major changes in pretrial detention policies and practices had best be done in an orderly, thoughtful manner. Too often what passes for planning is a spasmodic process, sparked by an advocacy group, which results in a change in practice which is much less cost effective than other measures would have been. As an unlikely example, but one that makes the point clearly, a community where jailing is used excessively might leap into a pretrial work release program. Compared to most alternatives

to pretrial detention, this is quite expensive. The practice may be in order for a comparatively few people in most jurisdictions, and it is less interventionary and costly than traditional jailing. But to get at who the prospects for such a program are, other less restrictive remedies ought first be exhausted.

Although there may be times when it is best to go along with almost any positive change - just to "get things started" - ultimately, the greatest payoff should come from an effort to assure optimum use of the least interventionary - and almost always least expensive - alternatives. This permits concentration of expensive resources (e.g., closely supervised pretrial release) where this is the only practical alternative to the even more costly procedure of detention.

What is the optimum use of the several alternatives pretty well has to be determined by local experience. It is a matter of "what works?" - in terms, primarily, of such a criterion as court appearance. Use of summons, citation, and release on recognizance can be expanded to that point where failure to appear rates approach an intolerable level. How to measure such rates is discussed below. The question of tolerance limits has to be decided locally, but figures from a number of jurisdictions are reviewed here, and these may be useful as a point of departure for setting local policies.

Alternative Program Effectivenss

The point was made that alternative program failures will diminish program effects on jail population. They may also result in withdrawal of support by agencies which were original parties to policy change agreements - such as police, prosecution, or the judges. In other words, they may reach - or be thought to have reached the limits of "failure tolerance."

Failure rates represent a difficult problem. Definition of failure and failure rates is not easy in the first place. Keeping track of people in order to determine rates cannot be done without some expense. Determining whether a rate is high or low - or trying to establish a goal as to failure rates - is something like setting a course at sea without instruments on a dark night.

One sensational failure or a coincidental series of failures, however, can call a program into question, either by the community at large or by officials whose support is crucial. To anticipate misinterpretation of such isolated events - as well as to document the level of program effectiveness for budget and planning purposes - it is important to maintain a record of failures (or successes) in such a way as to facilitate periodic tabulation of statistics. In this way, statistics on rate of usage of various alternatives can be associated with comparative failure rates. By relating failure rates to method of release, selected characteristics of defendants, and processing time, it is possible to evaluate practices in some depth and initiate corrective changes on the basis of more than intuition or sentiment.

Choice of methods. In establishing routine procedures for maintaining pretrial release "failure rates," several decisions must be made. A monitoring system can be limited in scope and principle -- hence economical -- or comprehensive, elaborate, and fairly costly. The latter may pay for itself through contributions to improved policies and decision-making. The former will, at least, provide base line data and permit evaluation of any changes in practices or in characteristics and circumstances of defendants. It will also permit comparisons between jurisdictions with comparable defendants and release practices.

Decisions include:

1. Will data be sought only on failure to appear or will the evidence of new criminal charges also be included? If the latter, will data collection

cover only the incidence of new arrests? of arrests leading to revocation of pretrial release? of new arrests culminating in convictions?

2. Will failure rates -- however defined -- be tracked only for particular classes of releases (e.g., those released on recognizance or, otherwise, to supervision of a pretrial services agency) or of all releasees (defendants summoned or cited by police, those making bail, as well as those released to a pretrial agency)? Comprehensive tracking, while somewhat more costly, has obvious benefits. An an example, if apparently similar people, summoned or cited, do as well as those booked into jail and released after a day or two on bail or some court order, it would be in order to expand the use of summons and citation.

3. Will failure rates -- thinking now only of failure to appear -- be related to scheduled appearances or to defendants? Especially in felony cases, several appearances per case may be involved. There is also the factor of multiple charges against one defendant. The same defendant may fail to appear several times.

If the base figure is the number of defendants, then only one failure to appear per case should be counted. Multiple failures by one individual should not be assessed against those who show up.

If the number of scheduled appearances is used, then it is fair to count all failures to appear. This procedure, incidentally, permits an economical method of checking failure rates. Briefly, this is just a matter of noting the number of court appearances scheduled for particular days and the number of warrants issued for failure to appear on the same days. Court calendars are the data source. The FTA rate would be warrants as a percent of scheduled appearances. (Warrants cancelled within some set period, e.g., 24 hours, could be ignored.)

Court Calendar Method.[7] The last mentioned approach would be a good starting point in a jurisdiction where more complex procedures are not already in place for measuring pretrial release failure rates. This method takes into account, of course, only failure to appear -- not re-arrests or new convictions. But it is minimally costly. The rate which it generates is probably not grossly different from a defendant-oriented rate, and could be translated into a figure for use in the more elaborate method described below.

Assume that 10,000 court appearances are scheduled for a particular court during a year. Warrants for non-appearance are issued in 500 instances, representing a 5% failure to appear rate. Assuming that the average defendant has three scheduled appearances, the 10,000 would translate into 3,334 defendants and failures into 167; the failure rate of individual defendants to appear would still be 5%. Dividing the failures, under the "court calendar" system, by the ratio of appearances to defendants will yield what should be a fair estimate of the number of defendants who failed to appear. This number can then be used to determine a "defendant-oriented" failure to appear rate.

Determining the ratio of scheduled appearances to defendants is a simple matter of counting, so long as the court calendars contain the necessary information -- that is, if they reflect that the defendant was in a particular pretrial status -- e.g., own recognizance, police citation, bail, etc. If we know how many individuals were granted a particular form of pretrial release during a given period -- and how many appearances were scheduled for people in this status -- the first figure divided by the second yields the ratio.

This procedure should not be necessary for a pretrial services agency in relation to its own clients. Tracking their appearances should be a routine function. But it could be useful in the important task of comparing appearance rates of agency clients against those for defendants on pretrial release but

not charged to the agency -- such as summons or police citation cases or defendants released on bond.

Suggested Method

If more than gross failure to appear rates are desired, somewhat more elaborate procedures are called for. The method outlined below is one possibility. It has two advantages. It takes into account the important factor of time. It lends itself to anything from a general appraisal to probing for clues as to circumstances which are accounting for a particular rate.

This method is adaptable, incidentally, to diversion programs, parole, probation -- or indeed any human services program in which clients remain over a period of time.

As described here, the method is designed for use with pretrial releasees, either totally or by any method of grouping useful in policy assessment.

Along with the method, the material below includes reference to published failure rates in a number of jurisdictions and offers a basis for preliminary assessment of failure rates.

The Concept. The method suggested entails use of blocks of "client days" in pretrial release status - specifically 1,000 man-days of exposure to the possibility of re-arrest or appearance failure.[8]

One thousand exposure days, for example, would represent ten people on pretrial release for 100 days, 100 people for 10 days, or any such combination in which clients times days equals 1,000.

During any given time period there will be a certain number of 1,000-exposure-day blocks - for example, with an average caseload of 1,000 there will be 30.5 such blocks in the average month.

The failure rate is determined by dividing the number of failures by the number of "blocks" - e.g., 10 failures in a month 30.5 = failure rate of .328.

The advantages of this device in monitoring and assessing failures are several:

1. Rates can be determined readily for most any time period - last month, the last 6 or 12 months, last year, etc. - so long as there is a record on which to base a reliable estimate of total exposure days and a record of failures to appear and/or of re-arrests.

2. The relative ease of applying the method facilitates comparisons with other jurisdictions or agencies - as well as between time periods in the same setting.

3. It is more economical and much more practical for quick assessment than the "ideal" way of measuring failure rates - which is to follow a particular cohort from entry on pretrial release until all or practically all have reached the final disposition point.

4. It is a more meaningful index of releasee performance than one commonly used - the number of failures divided by the total number of persons placed on pretrial release during a given time period. The latter is influenced by seasonal or other fluctuations in release rates and, at best, is reliable only for periods of at least one year, during which release policies remained constant and the gross trend in arrests was not significantly upward or downward. The rate per 1,000 exposure days will remain close to the "true" or cohort rate regardless of such changes.[9]

Definitions. Before attempting an assessment or setting up a monitoring system, a few basic definitions are necessary. These include what the notion of caseload is to cover; what will be counted as a failure to appear; and any limits on the meaning of "re-arrest." Suggestions which follow reflect definitions which were employed in studies and reports found useful in developing this report.

Caseload: This is simple enough where the analysis deals with a single organization, such as a pretrial release agency. Where the study focuses on a particular court the caseload would include everyone known to be on pretrial release as a result of action by the court or actions of others directing persons to appear in the court (e.g., misdemeanor citations by police). If a jurisdiction-wide study is made the same would apply to all courts in the jurisdiction.

It is possible to group all clients in one undifferentiated caseload or to break them down in various ways - e.g., police citations, cash bail cases, bail-bondsmen cases, O.R., supervised release, etc., or felons vs. misdemeanants, property offenders vs. offenders against persons, and so on.

Failure to appear (FTA): Failure to appear, as used here, is limited to "willful" failure. This has been defined in various ways, but in general it eliminates those who appear tardily, but before a warrant is executed (or issued). It usually eliminates those where a warrant is served, but the court finds that the person had a valid excuse for not appearing. In some studies also not counted are people who have failed to show up but in some lesser period than a standard "cut-off" point for bond forfeiture. A further measure is to count fugitives separately from willful failures -- fugitives of course being those on whom warrants were issued and efforts to serve these failed, presumably, because the defendant has fled or is in hiding. This is an item of information worth noting, but we have not provided for it here.

Moreover, the concept used here counts the same person only once if he fails to appear in relation to a particular charge. Some studies have reported extremely high failure rates because they add up all missed appearances in every case, then divide failures by the number of cases rather than by scheduled appearances, as in the "court calendar" method described earlier.

Before applying the formulae and making an assessment, a definition should be adopted which is practical within the jurisdiction. It is suggested that if the following is used as a guide, it will produce figures that should be sufficiently comparable to those used in developing the "norms" presented below:

1. All persons who failed to appear and were brought into court following execution of a warrant, unless the judge rules an individual had a valid excuse.

2. All who fail to appear and on whom warrants have been outstanding for some specified period from 24 hours up to a week.

Re-arrest: Use of re-arrest as an indicator of program failure is questionable for two reasons. If the re-arrest does not lead to cancellation of the release status, the practical effect on detention rates is nil and the individual is not treated officially as a "failure." On the other hand, if he is detained, and later acquitted of the new charge, he is a failure in a sense, but perhaps unjustly so. Nevertheless, re-arrests do represent a simple, if crude indicator of release adjustment in the community. To collect and assess data on this item, while by no means essential, would add a dimension to program assessment.

So far as is known, data in reports used by this project counted any arrest on a new charge. Traffic citations would not, of course, be included, nor would the re-arrest if it is on a failure to appear warrant in the instant case - since this would be counted as a failure to appear.

Where a person is re-arrested on a new charge while in failure to appear status on an earlier charge, studies used in this project counted him once in each failure category. On the other hand, those re-arrested more than once, would be counted only once as re-arrestees.

Computing Failure Rates

1. It is preferable to deal separately with felons and misdemeanants, if at all practical. As will be seen they tend to have different failure rates, and ordinarily processing time from arrest to final disposition differs substantially.

2. Determine the "average life" of each caseload, misdemeanant and felon. One way to do this is to add up the month-end caseload count for 12 months and get an average. This figure is divided into the average number of admissions per month viz.:

100 (average monthly intake) ÷ 100 (average monthly caseload) = 1.

The average life of the caseload would be one month.

If data are not available for a year, the best that can be done is to divide the current caseload by the number of admissions over the past 30 days. If the present caseload and past month's admissions were in fact about average the result will be the same, viz.:

100 (present caseload) ÷ 100 (last 30 days' admissions) = 1.

These figures can be modified if there is reason to believe that either of them is significantly high or low.

3. An initial assessment should cover, as a minimum, at least that period of time determined to be the average caseload life. Preferably three or more such periods should be included to produce more valid results and/or note any trend in failure rates.

4. Multiply the average caseload figure by the number of days in the time period selected. Divide the result by 1,000 and then divide the number of failures to appear (or re-arrest) by the result. The examples following show the slightly different results -- for the same agency -- depending on the time period used.

(1) 100 (caseload X 365 days = 36,500

30 (failures) $\div \frac{36,500}{1,000}$ = .822 failures per 1,000 exposure days.

(2) 100 X 30.5 (average month) = 3,050

2 (failures) $\div \frac{3,050}{1,000}$ = .656

3 (failures) $\div \frac{3,050}{1,000}$ = .994

(3) 100 X 61 (2 months) = 6,100

5 (failures) $\div \frac{6,100}{1,000}$ = .820 failures per 1,000 exposure days.

Obviously, more valid failure rates will show up as longer time periods are used. In example (2) failures were just below average one month and just above average the other, with a resultant spread in the failure rate.

Assessing FTA Rates

Having determined the failure rate, the question is: to what can it be related? In time, of course, rates can be checked periodically to determine any changes in them over the months or years. Changes detected can be related to policy or program modifications, known developments in the characteristics or circumstances of clients or changes in the personnel or their skill. If reasons for them are not apparent, failure rate changes will serve as signals that some further probes should be made.

It is also possible to compare a jurisdiction's rate with what is known or can be discovered about failure rates in other jurisidictions. To this end data on willful failure to appear from a number of jurisdictions were translated into failure rates per 1,000 days of exposure time and related to certain more obvious facts about the jurisdictions. The data, rather arbitrarily, were modified and condensed into the figures in the chart below. The basis for

the figures in the chart are presented in Note 10.

Defendant Category and Average Caseload Life	Probably Range of FTA Rates*
Felons	
Over 110 days	.25 - 1.0
80 - 110 days	.5 - 2.0
Under 80 days	1.0 - 2.5
Misdemeanants	
Over 40 days	.5 - 2.0
Under 40 days	1.5 - 4.0

* Willful failures per 1,000 exposure days.

Failure rates determined for the jurisdiction can be compared with the range of failure rates on the appropriate line(s) in the chart. If the jurisdiction's rate is at or below the low end of the range, it would compare with jurisdictions covered in the chart which ranked low - and the converse is true if the jurisdiction's rate is at or above the high end of the range on the chart.

Re-Arrest Rates

As was stated earlier, staff has less confidence in suggesting a yardstick for assessing re-arrest rates than for failure to appear because of the even more limited data. Reported re-arrests usually ran higher than failures to appear, but this was less and less true as failure to appear rates ran higher.[11] This is logical, since FTAs would often be returned to detention and removed from possible exposure to re-arrest. The following statement is no more than a proposition to be checked against experience rather than an indication of

findings thought to have validity, since our data were simply too few to generalize from. (This is provided there is a desire to use re-arrests as an item in program assessment.)

It is probable that re-arrests will exceed willful failures to appear in the following pattern:

FTA Rate per Exposure Days	Ratio of Arrests to FTAs
Under .5	4 to 1
.5 to 1.0	3 to 1
1.0 to 2.0	2 to 1
Above 2.0	1 to 1

Use of Comparisons

Comparison of a jurisdiction's failure rates with those presented above can be of use in an initial assessment. The fact that the jurisdiction's current rates are high or low in terms of such a comparison, however, should not lead to precipitate action - be it an effort either to liberalize or tighten up on policies. As was stated earlier, it is not possible to specify compelling universal norms in this area of criminal justice practice. Conceivably, in time, if enough jurisdictions keep track of their decisions and consequences of them - and useful interaction continues among jurisdictions concerning policies and practices - there may be movement toward more of a national consensus on issues in pretrial release than now is possible.

At the same time if, using this crude assessment device along with intuitive judgment, there is a belief that pretrial release failure rates are quite low or unduly high, this certainly should occasion thoughtful review of current practices - e.g.:

Are policies more restrictive than they probably need to be? Are people being released under unnecessarily limiting conditions - as to amount of bail, supervision requirements, or other conditions? Could more be released on their own recognizance with minimal or no service - freeing up pretrial agency staff to take on more marginal cases now being detained?

Conversely, are failures running much higher than local officials consider acceptable? If so, what steps can be taken to reduce them? - e.g.: reduced processing time, especially for higher risk cases; more extensive use of supervised release; the introduction of precautionary measures now absent, such as systematic reminders of court appearance dates; provision of services such as employment placement or alcoholic treatment for persons with special problems; or improvements in decision-making to assure more effective setting of conditions or better selection of cases generally.

Further Investigation

A simple statistic like failures per 1,000 exposure days will not help to get at specific issues such as factors accounting for apparently low or high rates. The same techniques can be used, however, to generate more incisive data. Differential failure rates can be computed for releasees with different modes of release, for groups which differ in average processing time, or comparable groups receiving or not receiving certain services. Some continuing experimentation and program assessment should be an integral function of pretrial release administration.

Pretrial release within a jurisdiction is an ongoing program which will

tend to improve or deteriorate over time - depending on the concern and creative thought devoted to it. Without periodic evaluation, occasional introduction of new methods, and some experimentation designed to "test the limits" of various modes of release, the program may stagnate. At best, it will operate without knowledgeable control.

CHAPTER V

RECAP: PRETRIAL DETENTION ALTERNATIVES

Specifics of a comprehensive post-booking release program, including various optional procedures, are presented in Appendix B. Below is a summary of suggested elements for use in assessing overall pretrial practices and services in a jurisdiction. These are rooted in National Advisory Commission standards and reflect contemporary views of other organizations, including the American Bar Association and the National Association of Pretrial Service Agencies.[1]

1. Summons is commonly used in lieu of arrest in cases where citizen complaints are registered with magistrates or the prosecutor's office -

    a. Informal summons, as by letter or telephone.

    b. Formal summons.

2. Field citation is commonly used by police in relation to most categories of misdemeanor offenses and designated lesser felonies.

3. Stationhouse citation supplements field release, where arrestees are escorted initially to a precinct station or police headquarters, rather than directly to a central pretrial detention facility such as the county jail.

4. The jailer is authorized and does release additional numbers or defendants -- not found eligible or suitable for citation release by the arresting agency -

    a. By issuing citations where appropriate, on the basis of additional information or less stringent criteria than those employed by the police agency.

b. By accepting cash bail, a percentage deposit, or security in accordance with a published bail schedule.

5. A pretrial agency assists the magistrate in making release decisions on arrestees not released at the above stages. This assistance is through:

a. Exercise of delegated authority.

b. Reports and recommendations to a duty judge.

c. Presentations at initial hearings.

d. Presentations at subsequent hearings.

NOTE: Options a through d may all be employed in a jurisdiction -- or certain ones may not be used. For example, there may be no provision for delegated authority or duty judge arrangement, although at least one of these would be desirable. In some situations the pretrial services agency may concentrate only on persons who have still not been released after initial court appearance (option d).

6. Persons still detained after initial or subsequent court appearances are accorded periodic (e.g., at least weekly) screening (by pretrial service agency or jail staff):

a. To determine if new information or other developments might justify a recommendation for some form of pretrial release with conditions which the defendant can now meet.

b. To identify cases eligible for assigned counsel or public defender services who may have been previously overlooked.

c. To direct attention of the court, prosecutor, or defense counsel to any apparent lag in processing a case toward speedy disposition.

d. To determine a need for any other action or services and seek to arrange for these.

7. Pretrial release options available to the court include, at a minimum, recognizance release, supervised release, and percentage bail. The latter two may be combined in particularly high risk cases.

8. Explicit criteria and guidelines exist to provide policy direction for police, jailers, court representatives, and magistrates in decisions as to the use of summons, citations, recognizance or conditional release, and in setting bail.

9. The pretrial release agency maintains varying levels of contact with those persons released conditionally or on recognizance and, where directed by the court, those released on percentage bond. As a minimum, this includes reminders and verification of court appearances and referral service for releasees who seek help with a problem which may affect their ability to meet release obligations. It assists the court in priority scheduling of cases identified as high risk in order to minimize their time in pretrial release status. As an option, it may have an investigative/apprehension unit which locates persons who fail to appear and persuades them to come into court or, if need be, arrests them.

10. The pretrial service agency maintains records of such a nature as to facilitate periodic review and assessment of pretrial

release policies and practices in the jurisdiction, including failure to appear and, optionally re-arrest rates. At a minimum it maintains and periodically tabulates this information on its own clients and is able to determine what percentage its clients represent of all arrestees in the jurisdiction. Preferably, the agency gathers information and failure rate data on all persons summoned, cited, bailed, or otherwise released pretrial, whether or not to its supervision. This permits comparison of varying modes of release in relation to selected case factors, including time from arrest or summons to final disposition or default. (See Appendix B for further discussion of record-keeping and statistics.)

11. Further optional responsibilities of a pretrial services agency could include:

a. Screening and referral of persons for diversion (see Volume 3 of this series).

b. Technical assistance to law enforcement agencies in planning and implementing citation programs.

c. Leadership in the expansion and improvement of community resources to enhance prospects of higher risk pretrial releasees -- e.g., care and treatment facilities for alcoholics, drug dependent persons, stranded persons.

d. Advice and technical assistance to jailers and others in relation to prisoner rights, facilities planning, pretrial work release and furlough, and possibilities of use of half-way houses in lieu of high security facilities in some cases.

CHAPTER NOTES

Chapter I

1 Both the federal and most state governments, by constitutional and/or statutory provisions, prohibit the use of "excessive bail" and the denial of bail except in capital cases. Even with the latter, state laws may qualify the provision by limiting denial of bail to cases "when the proof is evident or the presumption strong that the person is guilty." (Oregon Code of Criminal Procedure, Article 8, Section 148 {2}).

The guarantee against excessive bail approaches, if it does not actually establish a presumption in favor of non-monetary bail for indigent defendants.

By traditions, the letter of statutes, and case law decisions, there is a further indication that the purpose of pretrial detention, and of bail, is to assure the defendant's appearance in court* -- not to prevent him from possible return to crime.

By way of widely tolerated practice, two inter-related phenomena occur running counter to these traditions and provisions of law.

(a) Bail is set which, in terms of the individual's ability to pay, is clearly excessive.

(b) Pretrial release is denied - typically through setting high bail - not because of the fear of skipping but because either of the notoriety of the defendant or his alleged crime or a belief that he will probably commit new crimes if released.

The issue continues to exist in a state of ambiguity - with neither legislatures nor courts clearly stating, and enforcing, a policy.

* See, for example, Stack v. Boyle, 342, U.S. 5 (1951).

At the annual conference of the National Association of Pretrial Service Agencies, New Orleans, April 1974, sentiment was generally evident in favor of an affirmative legal right to non-monetary bail. Frequent objection was expressed to use of high bail on the basis of assumptions about a defendant's potential dangerousness. As alternatives, two procedures were suggested:

> Preventive detention based on evidence at a court hearing which would support an allegation of dangerousness. (Where this is presently provided for by statute - District of Columbia - the procedure is rarely used, and high bail continues to be used in situations which the law was intended to deal with.)
>
> Civil commitment under mental health statutes. (This also is of limited practicality, since such laws cover persons determined to be dangerous to themselves and others because of mental illness. The practice, more and more, entails procedural requirements comparable to those of D.C.'s preventive detention law.)

Material provided to conference participants bearing on these and related issues included two items which, it is to be hoped, will be published in the conference proceedings:

> "Hypocrisy in the Bail System" by Bruce D. Beaudin - April, 1976.
>
> "Standards and Goals for Pretrial Release." (Standards recommended to the Association for adoption by its committee on pretrial release, co-chaired by Susan Bookman and James B. Droege.)

For a fuller review of procedures, issues, and relevant literature, the following readings are suggested:

Wayne H. Thomas Jr., "Bail Reform in America," Berkeley, University of California Press, 1976. (Chapter 20 - "Crime on Bail: The Preventive Detention Issue.")

Barry Mahoney, "An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs," Denver, Colo., National Center for State Courts, October 1975. (Chapters 1 and 2).

Paul B. Wice, "Freedom for Sale," Lexington, Mass., Lexington Books, 1974.

2 See report of the National Advisory Commission on Criminal Justice Standards and Goals, "Corrections," Chapter 4.

3 "Some proposals for modernizing the law of arrests," California Law Review, Vol. 39, pp. 107-108, 1951.

4 Arthur Beeley, "Analysis of the citation system in Evanston, Illinois: Its value, constitutionality viability," Journal of Criminal Law and Criminology, Vol. 65, 76.

5 Caleb Foote, "Compelling appearance in court: Administration of bail in Philadelphia," University of Pennsylvania Law Review, Vol. 102, pp. 1031-1079, 1954.

6 John Roberts and James Palermo, "The administration of bail in New York City," University of Pennsylvania Law Review, Vol. 106, pp. 693-730, 1958.

7 Ares, Rankin, and Sturz, "Manhattan Bail Project: An interim report on the use of pre-trial parole," NYU Law Review, Vol. 38, p. 67, 1963.

8 Some thirty jurisdictions in twelve states and the District of Columbia were visited in the course of the project. In addition materials were obtained by correspondence from scores of other criminal justice agencies, representing practically all the states.

9 See comparative data (year to year and community to community) in Chapter 9, "Bail Reform in America," Op.cit. supra note 1. Also specific references to Santa Clara County and Brooklyn on page 101.

10 Studies have identified various characteristics and circumstances of defendants which are associated with variations in likelihood of appearance or failure to appear in court. Studies associated with the early Vera Institute demonstration of recognizance release in New York City stressed the importance of stable residence, close family ties, prior record and steady employment as predictors of reliability.

Later experience and studies have found that the type of criminal charge may be predictive of failure (with less serious offenses generally associated with higher failure rates). Continuing research raises questions as to how strongly predictive any single factor is - and even clusters of factors. This is because of the essentially low failure rates, regardless of who or how many are granted pretrial release. For example, a cohort of defendants may earn a "poor score" on a schedule of numerous factors, and it may be predictable that a substantial proportion - say a third - will fail to appear. But six or seven out of ten of persons with such a score will appear. There is no objective basis for deciding, in an individual case, whether the person will fall in the failure or success group; thus blind use of "the odds" will, in effect, be unfair for the majority who may be denied release.

Another problem is that what research has been done has yielded some inconsistent findings. What may hold for arrestees at one point in time in one jurisdiction may not prove useful in predicting outcomes later or in another location.

Research reports which deal with prediction of failure to appear and/or commission of new offenses while on pretrial release include:

Locke, Penn, Bunten, and Hare, "Compilation and Use of Criminal Court Data in Relation to Pretrial Release of Defendants: Pilot Study," Washington, D.C., National Bureau of Standards, Technical Note 535 Issued August 1970.

Michael R. Gottfredson, "An empirical analysis of pretrial release decisions," Journal of Criminal Justice, Vol. 2, p. 293, 1974.

Arthur R. Angel et al., "Preventive detention: An empirical analysis," Harvard Civil Rights - Civil Liberties Law Review, Vol. 6, p. 300, 1971.

S. Andrew Schaffer, "Bail and Parole Jumping in Manhattan in 1967," N.Y., Vera Institute of Justice, 1970.

William M. Landes, "Legal theory and reality: Some evidence on criminal procedure," Journal of Legal Studies, Vol. 3, p. 287, June 1974.

Robert A. Wilson, "A Practical Procedure for Developing and Up-Dating Release on Recognizance Criteria," Newark, University of Delaware Division of Urban Affairs, 1971.

This paper describes a system not only for determining failure rates but for use of findings in the continual refinement of criteria for making pretrial release recommendations. The system was developed by the University in cooperation with the Philadelphia pretrial services agency. As failure criteria it uses failure to appear, tardiness in appearing, re-arrest on same charge, re-arrest on a different charge. Instances of failure are related to the factors used in making pretrial release recommendatins.

The original research, at a cost of $15,000, led to installation of an on-line computerized information system which agency staff can use to get a reading on the prospective failure odds for a person being interviewed.

This project served as a model for development of a similar information system and program of on-going evaluation of pretrial release in the Vera-sponsored NYC pretrial release programs.*

11 The $24.00 and $19.00 a day jail commitment and daily custody figures are discussed in Chapter XII. Jail bookings in the United States are estimated at about 6,400,000. This multiplied by $24.00 would amount to $153.6 million. An estimated 6,600,000 adult arrests were made in 1974. (FBI Uniform Crime Report 1974; Table 28 modified by percent 18 and older as reported in Table 34.) It is possible that as many as 200,000 of these were cited rather than taken to jail. As to detention costs, in 1972 (according to National Jail Census) there were 80,800 unsentenced prisoners in jail. This figure times 365 X $19.00 yields a result of $550.3 million.

Chapter II

1 N.Y. State Criminal Procedure Law. Title H, Sections 130.10, 130.20, and 130.30.

2 Fingerprintable offenses include those involving weapons, gambling, child abuse, prostitution, sexual abuse, and confidence games. (N.Y.P.D. Patrol Guide No. 110-6, November 19, 1975)

3 California State Criminal Procedure Code, Section 853.6 and interviews with local officials in Santa Clara County.

4 Oregon Criminal Code - various sections.

*See also Chapter III, Note 16 (Pages 95-98) for further discussion.

5 for an interesting account of Vera Institute interactions with New York City criminal justice agencies see "Programs in Criminal Justice Reform," Vera Institute of Justice Ten-Year Report 1961-71, May 1972.

6 Police citation in criminal misdemeanor cases was authorized in California in 1959, but how soon after this formal programs were established was not determined. Use was already extensive by 1966 in one county (Contra Costa) and what was to become a model program for the state was begun in the City of Oakland in 1970. Floyd F. Feeney, "Citation in lieu of arrest: The new California law," Vanderbilt Law Review, Vol. 25, p. 367. Also Jeffrey M. Allen, "Comments: pretrial release under California penal code 853.6," California Law Review, Vol. 60, p. 1339.

7 California Motor Vehicle Act, Section 22(c), C. 188 (May 10, 1915).

8 Connecticut General Stat. Review - 54-63(c) Supp. 1969). Statistical data from "Bail Reform in America," Op.cit. supra note 1, chapter I, p. 207.

9 Oregon Review Stat. 133.045 (1959).

10 Minnesota law: Rules of Criminal Procedure, Rule 6.01 (1975); Vermont: Rules of Criminal Procedure, Rule 3(c) (1973).

11 Louisiana State Code of Criminal Procedure, Title I, Article 211.

12 See Appendix A.

13 Interview with Baton Rouge Police Department Legal Advisor, John T. Caskey, Jr., March 1975.

14 Table 13 is an excerpt of a report prepared for the National Institute of Law Enforcement and Criminal Justice entitled "Assessment of the Present State of Knowledge Concerning Pretrial Release Programs," Wayne H. Thomas, Jr., Project Director for National Center of State Courts, Denver. Excerpt was made available for inclusion in a work-book distributed at the 1976 annual conference of the National Association of Pretrial Service Agencies, New Orleans, April 1976.

15 Gary G. Taylor and E. Ann Stackhouse, "Custody Classification Preprocessing Center," Final report, Sacramento, American Justice Institute, 1975.

16 Mark Burger, "Police field citations in New Haven," Wisconsin Law Review, 1972, p. 382.

17 Correspondence from Bruce Beaudin, D. C. Bail Agency Director.

18 See Note 6, Feeny article, p. 375.

19 See Note 6, Allen article, p. 1360.

20 "Bail Reform in America," Op.cit. supra Note 1, Chapter 1, p. 6.

21 Discussions with Court Services agency officials.

Chapter III

1 A description of such a privately secured bail program may be obtained from the Lehigh Valley Bail Fund, Inc., Executive Director John H. Anderson, 108 W. Fourth Street, Bethlehem, Pennsylvania 18015.

2 John J. Murphy, "Revision of state bail laws," Ohio State Law Journal, Vol. 32, p. 451; "Bail under the judicial article," DePaul Law Review, Vol. 17, No. 2, p. 267. For an excellent discussion of this release method see Chapter 16, "Bail Reform in America," Op.cit. supra Note 1, Chapter I.

3 See "Freedom for Sale," Op.cit. supra Note 2, Chapter I, pp.50-63. Also: Michael P. Kirby, "Evaluation of Pretrial Release and Bail Bond in Memphis and Shelby County," Memphis, Tenn., Policy Research Institute, Southwestern at Memphis, 1975. Refer also to Murphy, "Revision of State Bail Laws," Note 2 above and Bruce Beaudin paper, supra Note 2, Chapter I.

4 Discussions with and material supplied by Vera Institute Pretrial Agency staff, including Mike Farrell, city-wide director of the various borough programs.

5 Paper presented by Chuck Kulman, research director, Vera Institute, Pretrial Services Agency, during annual conference of the National Association of Pretrial Service Agencies, New Orleans, April 1976.

6 Information obtained through interviews and correspondence with James B. Droege, Director. An operations manual developed by Mr. Droege and used as a model by a number of agencies across the country is presented in Appendix B. Druing the summer of 1976, the Criminal Court of Marion County adopted the percentage bail plan in cases where the scheduled bail was $5,000 or less. This is likely the first step in this jurisdiction toward a fuller use of the method.

7 "The Bail System in Charlotte," Op.cit. supra note 11, Chapter I. More current information obtained during site visit with Herb Mann, Mecklenburg County Pretrial Release Program Director in May 1975.

8 Information obtained in interviews with Ronald Obert, Pretrial Agency Director and members of his staff at different times during 1975. Also from a descriptive report of the program, evaluation, and procedural manual ("Pretrial Release in an Urban Area," August 1, 1973) and an evaluation conducted by the American Justice Institue in 1975 of the agency's supervised pretrial release program.

9 Information obtained during site visit to agency in May 1975, including interviews with Deputy Director John Carver and other staff, descriptive materials, and statistical reports. Also letter of July 7, 1976, from Mr. Beaudin and an enclosed copy of the agency's manual and draft of a personnel policy.

10 Information obtained during a site visit in April, 1975, supplemented by descriptive materials, copies of annual reports, and additional statistical data.

11 Information obtained through correspondence and during site visit in August 1975.

12 Information obtained by correspondence and telephone conversation with Susan J. Bookman, agency director.

13 In both instances information was obtained in the course of interviews with staff during 1975.

14 Oregon Criminal Procedure Code, Article 8.

15 House Bill No. 254, which became law in the State of Kentucky, June 20, 1976.

16 Our effort to obtain evaluative reports on pretrial release that might enable us to develop a success-failure prediction scheme was not successful. We believe that we have seen most if not all of the studies which might have been useful in such a project. A few studies presented some findings, and these were similar in relation to a handful of items. Findings were contrary or equivocal in other factors. Highlights are presented below. (Identification of studies follows the tabulations.)

Felons vs. Misdemeanants

	Misdemeanants	Felons	Total
D.C. (rearrest)*	8.3	17.0	11.7
Mecklenburg - FTA**	10.1	11.3	10.2
Rearrest**	9.7	10.6	9.8
Memphis - FTA**	14.0	17.2	15.6
S.C. - FTA**	6.0	7.0	6.5
Rearrest**	5.0	7.0	6.0

* Rate about same for misdemeanants and felons, controlling for exposure time.

** Rate is higher for misdemeanants, controlling for exposure time.

Comment: The majority of this slim group of studies finds misdemeanants a higher risk group than felons. We assume this is because of significantly more liberal policies in releasing misdemeanants. Higher risk felons are more likely to be detained.

Property vs. Persons

D.C. found that "violent offenders" (homicide and assault with dangerous weapon) were rearrested twice as often as non-violent, and that "dangerous offenders" (robbery, burglary, rape, arson, and drug offenses) were arrested three times as often as non-dangerous. But all of the "violent" and "dangerous" cases were felonies and three-fourths of the "others" were misdemeanants - so that the time factor probably explains a great part of these differences.

Contrary to D.C., Memphis experience was as shown here:

Felony Cases	Failure to Appear	Rearrest
Against Person	8%	11%
Others	20%	23%

Comment: These extremely limited and equivocal data throw little light on the issue.

Prior Record

The following items were gleaned from the D.C. and Mecklenburg County reports:

	Percent Rearrested (D.C.)	
	Felons	Felons and Misdemeants
Prior Record	26.3	12.1
No Prior Record	17.0	11.7

	Mecklenburg County	
	FTA*	Rearrested
Two or More Prior Arrests	14.8	15.5
One or 0 Prior Arrest	7.4	6.6

*Includes both "willful" and other failures.

Comment: Our limited evidence points to prior arrest or criminal record as a predictor of failure on pretrial release, although the great majority of those with a prior record were not failures.

Employment:

In D.C. although 60% of pretrial releasees were reportedly employed, only 34% of those rearrested were employed.

In Mecklenburg releasees who maintained employment failed to appear (including "non-willful") at a rate of 5.5% against a 14.4% rate for those unemployed.

Comment: This speaks partly to defendant characteristics, but is also affected by economic conditions and the kind and level of services for pretrial releasees.

Studies Utilized

D.C. - NBS Technical Note 535, supra note 10, Chapter I.

Mecklenburg - "Bail System in Charlotte, 1971-73," supra note 10, Chapter I.

Memphis - "Evaluation of Pretrial Release in Memphis and Shelby County," supra note 3, Chapter III.

S.C. - "Pretrial Release Program in an Urban Area (Santa Clara County, California)," Sacramento, American Justice Institute, 1973.

Not presented here were findings in the D.C. study on defendant educational level and family ties and in the Mecklenburg study on the defendant's race. None of these factors appears to have predictive value, so far as these two projects can tell us.

Nature of Problem

One study examined a total of 61 items of information on two cohorts of pretrial releasees in relation to three isssues: (1) Any failure to

appear in court; (2) "willful" failure; (3) rearrest on a new charge. Half the factors (32) were found to have some association with one or more of these criteria of success. Each single factor had almost inconsequential predictive power, however. Even when all factors relevant to one of the criteria were grouped together their total predictive efficiency was not high (e.g. - coefficient of determination .159 to .208). Part of the problem with trying to isolate specific "prediction factors" is that rather large numbers are required. Fortunately, in a particular setting and time period, there usually aren't that many failures. In addition the very strong effect of average time in pretrial release status tends to "muddy the waters."*

Conclusion: At this time common sense and political judgment are the best sources of guidance in selecting people for pretrial release - and determining the need for special conditions or services for persons released.

A defendant on a charge likely to bring a long prison sentence, against whom evidence is strong, and having a persistent history of absconding or escaping and involvement in predatory crime is obviously a poor risk - especially if his prospects for employment are poor and little or no resources are available to supervise him and deal with problems he may present.

A defendant not facing the prospect of imprisonment, with a fairly good chance of acquittal, no prior criminal record, strong community ties, and available employment is obviously a good risk.

Between these extremes, prediction is hazardous. We continue to believe that exposure time and selective supervision and services for higher risk cases are the key factors in pretrial release success. Such a factor as the current charge poses issues of political judgment more than of probability of success or failure.

* Gottfredson, Note 10, Chapter I.

Chapter IV

1 "Bail Reform in America," Op.cit supra Note 1, Chapter I, pp. 37-38.

2 This included 21 jurisdictions in 11 widely scattered states and the District of Columbia.

3 Paul Wice, Op.cit. supra Note 2, Chapter I.

4 "Bail Reform in the United States," Op.cit. supra Note 1, Chapter I, p. 48

5 Ibid., p. 69.

6 "Corrections," Op.cit. supra Note 3, Chapter I.

7 This approach to assessing failure to appear rates for pretrial releasees was described in Gedney, Harahan, and Scherman, "Techniques for Computing FTA Rates," paper presented at the annual conference of the National Association of Pretrial Service Agencies, New Orleans, April 1976.

8 This concept was first used by authors of a reprot on a study of pretrial release re-arrest rates in Washington, D.C. Locke, Penn, Bunten, and Harte, supra note 10, Chapter I.

9 The "true" (cohort) rate will average out to a fixed percentage of average caseload, overall or at any point in time. The rate per 1,000 exposure days represents a percentage of caseload. Thus it will remain close to the cohort rate. This is not always true for the figure for failures as a % of intake, viz:

> Assume two variations in intake trends for 1,900 pretrial releasees during a six-month period. In one case a new program starts and intake rises. In the other, because of personnel and other factors, intake declines. Further assume an average stay of 30 days and a cohort violation rate of 3%.

	Intake Caseload Violations			Intake Caseload Violations		
Month Prior to Sample Intake	0	0	-	(500)	(500)	(15)
Month #1	100	50	1	500	500	15
Month #2	200	150	5	300	400	12
Month #3	300	250	7	400	350	11
Month #4	400	350	11	300	350	10
Month #5	300	350	10	200	250	8
Month #6	500	400	12	100	150	4
6 Months' Intake	1,800			1,800		
Total Violations			46			60
Violation Rate per Intake			2.5%			3.3%
1,000 Exposure Day Blocks		47.275			61.0	
Violations per Block			.973			.984

10 Willful failure to appear (FTA) rates were developed for 56 pretrial release cohorts for which data were available on both failures to appear and average time from pretrial release to final disposition. The rate used was FTAs per 1,000 exposure days (number of clients X average days on PTR 1,000). They represented 19 jurisdictions in 13 states and the District of Columbia (and all regions of the U.S.). FTA rates ranged from 0 to four cohorts to a high 4.438 for one (that is, approximately 4½ failures per 1,000 exposure days). The median rate was .88 or a bit under one failure per 1,000 exposure days.

An interesting product of the analysis, but logical enough with hindsight, was the fact that there is some correlation between FTA rates and the cohort's average length of time on pretrial release. The relationship is inverse - that is, cohorts with longer average processing time tended to have lower failure rates per 1,000 days of exposure time.

Much of the explanation of the relationships lies in the higher FTA rates during the early weeks on PTR, with some tapering off as the higher risk clients leave the rolls. This phenomenon inevitably produces a higher rate per 1,000 exposure days for a cohort which averages only a short time from arrest to final disposition.

The "gross" FTA rate (failures by number of clients) is almost identical for felons and misdemeanants - 5.5 and 5.1% respectively. But the rate per 1,000 exposure days, for felons, is much lower than for misdemeanants. The table below shows that the average group of felony releasees was in release status 89 days with an FTA rate of .86. The average misdemeanant group was in release status 49 days, with an FTA rate of .92. Felons in the longer term group had an FTA rate of .44 compared to 98 for those in the short term group. Comparable figures for misdemeanants were 1.06 and 1.90.

	Average Group		Short Time		Long Time	
	Felons	Misdems.	Felons	Misdems.	Felons	Misdems.
Median No. Days on PTR	89	49	65	38	140	101
Median FTA Rate	.86	.92	.98	1.90	.44	1.06
Ranges Days	82-111	44-67	17-77	17-42	122-462	72-142
FTA Rates	.21-2.53	0-2.33	0-2.59	0-4.44	0-1.43	.30-2.74
No. of Cohorts	12	8	9	9	9	9

Gross FTA rate: Felons 5.5; Misdemeanants 5.1

11 Paul Wice, "Freedom for Sale," Op.cit. note 1, Chapter I, found overall FTA rates in 72 cities average 2.9% and re-arrest rates averaging 7.6%. In several agencies which we visited during 1975 (data for periods four and six years later than Wice's data) we found average FTA rates of 5% and re-arrest rates of 9%.

Chapter V

1 N.A.C. report, "Corrections," Op.cit supra note 1, Chapter I. Also ABA Section on Criminal Justice, American Bar Association Standards Relating to Pretrial Release, Washington, D.C., 1968. Recommended standards and goals on pretrial release, prepared by a committee of the National Association of Pretrial Service Agencies, Op.cit. note 1, Chapter I.

Full Text of California Penal Code Section 853.6 as of January 1976

CHAPTER 5C

Citations for Misdemeanors

Issuance of citations for violation of ordinances of port district: H & N C § 6309.6.

Arresting inspector of Bureau of Food and Drug to follow procedure prescribed by this chapter where arrested person does not demand to be taken before a magistrate: H & S C § 216.

§ 853.6. Release of arrested person on notice to appear: Procedure: Nonrelease: Form indicating reasons

(a) In any case in which a person is arrested for an offense declared to be a misdemeanor and does not demand to be taken before a magistrate, such person may, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the arresting officer or his superior determines that the person should be released, such officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court. If the person is not released prior to being booked and the officer in charge of the booking or his superior determines that the person should be released, such officer or superior shall prepare such written notice to appear in court.

(b) Unless waived by the person, the time specified in the notice to appear must be at least five (5) days after arrest.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by such court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate may fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him in the form set forth in Section 815a of this code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case, unless the defendant has been charged with violation of Section 374b or 374e of this code or of Section 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he has previously been convicted of a violation of such section or punishable under such section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of this code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer shall indicate on the notice to appear whether he desires the arrested person to be booked as defined in subdivision 21 of Section 7 of this code. In such event, the magistrate shall, before the proceedings are finally concluded, order the defendant to be booked by the arresting agency.

(h) A peace officer may use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person pursuant to Section 836 or in which he has taken custody of a person pursuant to Section 847.

(i) If the arrested person is not released pursuant to the provisions of this chapter prior to being booked by the arresting agency, then at the time of booking the arresting officer, the officer in charge of such booking or his superior officer, or any other person designated by a city or county for this purpose shall make an immediate investigation into the background of the person to determine whether he should be released pursuant to the provisions of this chapter. Such investigation shall include, but need not be limited to, the person's name, address, length of residence at that address, length of residence within this state, marital and family status, employment, length of that employment, prior arrest record, and such other facts relating to the person's arrest which would bear on the question of his release pursuant to the provisions of this chapter.

(j) Whenever any person is arrested by a peace officer for a misdemeanor and is not released with a written notice to appear in court pursuant to this chapter, the arresting officer shall indicate, on a form to be established by his employing law enforcement agency, whether or not each of the following was a reason for such nonrelease:

(1) The person arrested was so intoxicated that he could have been a danger to himself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his own safety.

(3) The person was arrested for one or more of the offenses listed in Section 40302 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) Any other reason. If the person arrested was not released for one or more of the reasons specified in paragraphs (1) to (8), inclusive, the arresting officer shall specifically state on the form the reason for the nonrelease.

Such form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him from custody before trial.

DEPARTMENTAL GENERAL ORDER 71-44
POLICE DEPARTMENT

Rev.
May 23, 1973
N-4

Index:
Adult Misdemeanor Arrests
Citation, Misdemeanor
Misdemeanor Citation Procedure
Release on Citation

MISDEMEANOR CITATION PROCEDURE
POLICY STATEMENT

The general policy of the Sacramento Police Department is to release persons eighteen (18) years or older accused of misdemeanor offenses on a signed promise to appear whenever possible. Your attention is directed to the California Penal Code, Section 853.6, which provides for release of misdemeanant arrestees on a citation.

The purpose of developing the Misdemeanor Citation Program in the Sacramento Police Department is to improve the operational efficiency of the patrol units in the field. Officers will be allowed to issue citations for misdemeanors that do not warrant an immediate booking. Patrol time of the Department will be increased with a resulting effectiveness directed toward more serious offenses by utilizing the Misdemeanor Citation Procedure. Therefore, effective December 1, 1970, the officers of the Sacramento Police Department shall be authorized to issue citations in the field for misdemeanor violations in accordance with this policy.

CITE OR PHYSICAL ARREST

When invoking the Misdemeanor Citation Procedure, all officers are to keep the following in mind. The police department is an investigative agency and held with the responsibility of suppressing crime and maintaining the peace of the community. It is not the duty or the function of the police department to punish an individual. This is the duty of the courts after a legal hearing based on the facts. With this in mind, (and except as otherwise provided in this policy), officers shall use the following guidelines in making their determination as to whether they wish to cite or arrest a misdemeanant in the field:

1. The subject must establish his identification beyond a reasonable doubt.

2. He shall have been a resident of Sacramento or within a twenty (20) mile radius of Sacramento for at least one (1) year, and preferably two (2) or more years.

3. He shall be locally employed for one (1) year or more. (Student will qualify in lieu of employment.)

4. He must waive his right to be taken immediately before a magistrate.

5. Subject must sign the citation.

6. There are no facts that indicate to the arresting officer, the need to book rather than issue a citation.

EXCEPTION: In order for the field release guidelines of this policy to have a reasonable degree of flexibility, field supervisors are given the authority to make exceptions in cases where extenuating circumstances are present. Where it is in the public interest, or in the interest of justice, to make an exception to the field release guidelines, officers shall contact their immediate supervisor and report the relevant facts. The final judgment of the supervisor, based on a standard of reasonableness, shall be binding in all cases.

WHERE ANY OF THE FOLLOWING FACTS ARE PRESENT, ARREST IS MANDATORY:

1. The subject has a prior felony conviction or more than one (1) prior misdemeanor conviction.

2. Records of this or other police agencies indicate the subject has previously failed to appear in court. (Bench warrant, etc.)

3. The subject is intoxicated.

4. All vice arrests.

5. All warrants. (Local warrant check mandatory.)

6. All cases where there are "wants" from other jurisdictions. (Local records check mandatory.)

7. There is a need for further follow-up investigation. (Crime could develop into a felony.)

8. There is a threat of immediate danger to the public, to the individual, or to law enforcement personnel by reason of the accused's mental attitude.

9. The suspect is to be charged for an offense that would, if convicted, require registration as a sex offender.

A Misdemeanor Citation Release Form has been designed to assist officers in making decisions consistent with the guidelines of this program. The Misdemeanor Citation Release Form is printed on the back of the "Citizens Arrest Form". A form will be filled out on every person released in the field. These forms are then to be routed to the Records Division.

FIELD RELEASE PROCEDURE

When a citation is to be issued in the field in lieu of arrest, the only difference from existing procedure will be the citation. All related reports to the offense will be taken as required by existing procedures (i.e., petty theft offense - citizens arrest). Again, the only difference would be that the accused will be cited rather than booked.

Officers are to include on the Offense Report the cited person's name, date to appear, and the number of the Misdemeanor Citation in the space entitled "Persons Arrested".

Misdemeanor Citation Procedure (Field Release)

In filling out the citation, the same procedure will be used as in issuing a traffic citation plus the following additions:

1. The officer shall clearly mark the box on the citation for "Booking Required" and write on the citation in the space provided for a description of the offense "Booking under provisions of California PC Section 853.6(g)".

2. The officer shall fill in the date of the scheduled appearance of the defendant keeping in mind that Saturdays, Sundays and holidays are legal court holidays and are not counted when setting court dates. Allow a minimum of five (5) days from the date of issuance of the citation and a maximum of ten (10) days for a court appearance.

3. The officer will specifically call to the attention of the subject the date, time and place of appearance plus the fact that a failure to appear shall constitute an additional violation.

4. All criminal offenses are to be cited to Department #9, Municipal Court, 620 H Street, at 9:30 a.m.

5. All information must be on a voluntary basis.

Misdemeanor Citation Depositories

All Misdemeanor Citations shall be placed in a box separate from the Traffic Citations at the end of each tour of duty by the officer issuing the citation. There are two (2) Misdemeanor Citation Depositories. One is located at the police Information Counter and the other in the Patrol Division roll call area.

JAIL RELEASES

Commencing July 1, 1973, the Sacramento Sheriff's Department will be assuming the responsibility for the care and custody of persons physically arrested. They will be authorized to make jail releases of misdemeanor prisoners arrested by the Sacramento Police Department. Therefore misdemeanor jail releases are to be in accordance with their established policy.

William J. Kinney

WILLIAM J. KINNEY
Chief of Police

APPENDIX B

MANUAL OF PROCEDURES

FOR

BAIL AND PRETRIAL SERVICES

by James B. Droege
Director
Marion County Pre-Trial Services

Prepared for
The Indiana Judicial Center
March 1973

Reprinted with
Revised Appendices
January 1975

INDIANA JUDICIAL CENTER

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I. PURPOSES OF A COURT BAIL PROGRAM

The setting of bail has always been within the sound discretion of the court. However, bail projects have strengthened the control of the courts over the release of persons accused. With a thorough background investigation, the court can safely release reliable persons on their own promise to appear, and it can set strict conditions on the release of those who pose serious risks. Alternative conditions of release, supervised by a court agency, have proven to be more fair and efficient than the traditional bail bond system. To the extent that money is still used as a condition of release, the 10% cash deposit (with 1% service charge) can provide a greater incentive to return for trial, reduce delays caused by defendant's inability to pay attorney's fees, or fines and costs, and make the court bail program nearly self-supporting.

II. STRUCTURE AND FUNCTIONS OF A BAIL AGENCY

The structure, procedures, and personnel of a court bail program may vary widely depending upon the court system, case load, and objectives of the respective judges. However, the successful operation of a bail project should include the following functions:

1. Investigate the community ties of arrestees and make recommendations to the court for release on recognizance, money bonds, or conditional release.

2. Give notice of continuances and supervise conditions of release imposed by the court.

3. Return to the court any persons who fail to appear or violate conditions of release.

4. Maintain adequate files to report on current status of cases and to develop statistics to reflect the performance of the project.

5. Determine eligibility for appointment of defense counsel.

6. Refer for treatment or rehabilitation, arrestees who are alcoholic, drug addicts, mentally or physically ill, or unemployed.

In larger counties, the volume of arrests are sufficient to justify creating a separate independent court agency to perform these functions with reference to all persons arrested and to serve all courts exercising criminal jurisdiction within the county. In smaller counties, these tasks can be performed by probation officers, bailiffs, or where available, law students, graduate students, or social service personnel. Regardless of their source or backgrounds, the courts must have complete confidence in the integrity, diligence, and accuracy of the investigative personnel. This is especially true if the judge appoints the investigators as Bail Commissioners of the court and delegates to them the authority to release persons in certain classes of offenses.

III. OPERATION OF A COURT BAIL AGENCY

The organization and staffing of a Court Bail Agency will depend upon the number of persons arrested, the local court system and schedule for arraignments or preliminary hearings, and the time coverage desired by the court. Usually, there is one central lockup or jail, to which persons arrested are taken before their first court appearance. Adequate personnel should be provided in order to interview and to verify information upon all persons arrested.

If arrestees are permitted to be released before their first court appearance based on a schedule related to the charge, that schedule should include the objective criteria for release on recognizance and interviewers should be available to investigate and release the arrestees 18 hours per day 7 days per week, assuming that the volume of arrests merits such coverage. In smaller counties, it may be possible simply

to have a person on call to cover arrests which take place at night or on weekends. Most interviews, however, would be taken early in the morning, beginning at 7:00 A.M., so that investigation could be completed before the defendant goes to court for arraignment later that morning or in the afternoon. In addition, sufficient clerical personnel must be provided to the bail project to keep files on the status of all cases until final disposition, to give notice of continued dates where that is required, to supervise defendants on conditional release, and to compile statistics and periodic reports.

The basic forms and procedures to be followed are:

A. The Daily Work Sheet (or prisoner log), attached as Appendix A, is the basic work form of the Bail Project. It lists, chronologically, all persons booked into the lockup, recording the name, age, sex and race description; offenses charged; the time received; the court and time of first appearance; the amount of bail from the lockup; by whom the bail was set (warrant, bond schedule, judge, or bail commissioner); whether the arrestee was released from the lockup; at what time; and under what conditions. Also, it can be used to follow up on the bail recommendation, by recording the disposition or the bail set by the court, whether the defendant had an attorney, and whether the defendant was able to make bond or was remanded to jail in lieu of bail. In the left hand column, the interviewer records the interview number if the person was interviewed. If the arrestee was not interviewed, the interviewer states the reason or status of the arrestee which prevented the interview, (such as refused, too drunk, fugitive, record of escape, or made bond). This daily log can also be used to keep a running tally of the number of persons arrested, interviewed, and released on O/R or recommended for release on O/R. By reference to it, the supervisor can determine if the arrest slate is being covered thoroughly and according to established policies.

B. Interview, Verification, and Records Check. The scope and content of the interview can range from the very detailed computerized format on a file folder used by some

projects to a very simple "self-interview" form filled out by the defendant himself and then verified by other court personnel. Copies of each are attached as Appendices B and C respectively. Another possibility is to take the interview and verification directly on the Recommendation Form (See Appendix D-1) which saves the time and effort of copying names and addresses twice. However, there is not sufficient space on the recommendation to record detailed answers to specific questions from the interview and verification. Further, a folder is convenient for recording follow-up data, advancing the case in a suspense file system, and holding related papers, memos or reports. The choice of interview forms may depend upon the available personnel, time and project budget, but the success of all other aspects of the court bail program ultimately will depend upon the thoroughness and accuracy of the background investigation.

1. The Interview. At the beginning, the interviewer should explain to the defendant who he is, that the purpose of the interview is to try to help him obtain release from custody, that the information which he gives will be used solely for the purpose of setting bail, and that the interview is purely optional. The interviewer should not inquire into nor discuss the guilt or innocence of the arrestee nor make any statements that could be construed as expressing an opinion or giving advice on whether the defendant should plead guilty or not guilty, or obtain the services of an attorney or bondsman. If asked by the defendant or his relatives, the interviewer may explain: the differences between surety bonds, cash bonds, and release on recognizance; that the emergency bond schedule is only temporary until the defendant's first court appearance (at which time the bond may be reduced); the time and place of his first court appearance; and the right to obtain a continuance in order to employ counsel.

   Since statements made without a Miranda-type warning may be used for impeachment, some

projects advise the defendant of this consideration. However, the lack of any such warning in the past has not created problems and the confidentiality of the bail interview has generally been observed.

The interview consists of detailed probing of the defendant's length and continuity of residence, marital status, employment, financial resources, friends or relatives in the area, his previous criminal record, other pending charges, his record of appearance at court proceedings, present or previous performance while on probation or parole, his physical and mental condition, and use of drugs or alcohol.

Certain key questions and interview techniques should be used to elicit every significant detail relating to the defendant's probability to appear. All facts should be recorded on the interview folder and not left in the mind of the interviewer. The interviewer should view his role as an impartial investigative arm of the court, and not as an advocate for prosecution or defense. However, in setting priorities on interviews and verification in a limited period of time, he should proceed first with those cases in which he is likely to be of greatest assistance in obtaining the release of the accused. Information that is unfavorable to the accused should be given to the court with a recommendation for conditions of release that will meet the risks posed by the defendant.

After the interview is completed and the defendant has signed the authorization to use the information and to contact the references he has given, the interviewer should immediately begin to verify all basic significant facts.

2. Verification. The person who takes the interview should complete the verification and recommendation. But, he must remember that other persons may at times need to verify additional information or to locate the defendant six months later. All information including references, phone numbers, records and sources checked, should be completely recorded along with the identity of the person providing verification, his address, phone number, and employment. If the reference also desires to act as supervisory custodian, he must have sufficient community ties and stability to qualify for an O/R recommendation.

Nearly all verification will be completed by local telephone calls; all numbers called and the results of each call should be noted. At the request of defendants who live outside of the area, long distance calls, COLLECT, may be made to obtain verification and to inform relatives of the time and place of court appearances so they can appear or arrange to have an attorney present. Unpublished numbers can be reached on an emergency basis by having the "chief operator" contact the unlisted party and request that a call be returned to the project. Unlisted numbers can be obtained by calling information.

NEVER suggest the answers which you expect from a reference by asking leading questions. Instead ask, "Where does he live?" and "How long has he lived there?" Do NOT ask, "Has he lived at 3800 North Meridian for 3 years?" or "Does he work at ABC?" The objective is to obtain as much detailed information as possible from each reference and then compare it with what the defendant has said. Minor discrepancies do not necessarily mean the defendant lied, but that the reference has only a limited knowledge of the defendant's residence or family ties. Additional references should be called. However, BEWARE of the defendant who says he has no phone and cannot remember or find in the phone directory

the name or number of his employer or a close relative. Check with the verifier on details of physical description, date of birth, or other facts about the defendant which an imposter would not know.

Without misrepresenting his identity or purpose, the interviewer should obtain the confidence of the reference by stating he is trying to help the defendant. The same key questions asked of the defendant should be put to the verifier, such as, "Has he ever lived in other areas?" "Does he stay there every night?" "When was the last day he worked?" etc. Frequently, the reference will disclose information not revealed by the defendant.

DO NOT contact the employer without the written consent of the defendant. Do not volunteer information about the arrest and charges which may cause the defendant to lose his job, but do not refuse such information if requested. However, it may be necessary to determine if the defendant will be permitted to return to work, even though he has been arrested. Sources of verification include:

a. References given by the defendant, such as relatives, friends, neighbors, employer, co-workers, union officials, teachers, landlord, religious leader, etc. Their address, employment and relationship to the defendant should be double-checked at the time verification is obtained.

b. Attorneys, friends, or relatives, not given as references, who contact the bail project to obtain the defendant's release. Not only should complete names and addresses of these persons be written down, but they should be able to give the basic factual information relating to the defendant's community ties, or provide a reference who can verify the facts.

c. Police records which show prior arrests, convictions, failures to appear, escapes, and probation or parole. Where available, a copy of the defendant's criminal history should be attached to the bail recommendation. If previous charges have no disposition, this should be obtained from the case file in Central Records or the Clerk's Office after the court cause number is copied from the case file. The defendant should be specifically asked about the current status of all charges which show no disposition. If charges are still pending, note the date due, court and cause numbers, and name of attorney. Check the warrant section to see if defendant is wanted on any other charges or for failure to appear in any previous cases.

d. The arrest slip, teletype report, or the probable cause affidavit should be checked or the arresting officer should be contacted to discover any unusual circumstances of the offense charged, attempted flight, use of aliases, theft of less than $100, or a domestic disturbance. If the arrest resulted from a family fight, no release before court should be made unless responsible custodians can definitely assure there will be no further hostilities.

e. Probation or Parole Officers, where applicable, should be contacted to get a report on the defendant's compliance with conditions and whether the current arrest will result in the officer seeking revocation of his current status.

f. The Clerk's Office should be checked to see if there are any outstanding warrants, not on file with the police, and to get accurate information on the disposition or pending status of any charges not available in police records.

g. Prior files of the Bail Project, which contain recommendations and background information on persons previously interviewed will show additional references, failure to appear, and obvious inconsistencies. If defendant is on conditional release, compliance with previous conditions, charge and date due back should be reported.

h. Criss-Cross and telephone directory can verify length of residence and phone number at a given address and persons living with defendant.

i. Identification on the defendant, such as factory badges with pictures, uniforms, licenses or credit cards with signatures, business cards, etc., can provide additional verification.

j. Field Investigation in important cases or where time permits can be used to verify residence and family ties when they cannot be verified by telephone.

k. Community Service Organizations may have a record of defendant's problems and previous adjustment and may provide a responsible third-party custodian to supervise the defendant while on release. Previous mental disorders, alcoholism, narcotic addiction, physical disabilities, and any record of treatment should be checked with the respective doctors, hospitals, or rehabilitation agencies.

When all verification efforts have been completed and noted on the folder, the report and recommendation with a release form should be forwarded to the court.

C. Recommendation and Criteria for Release. When time and personnel permit or when the case is unusual and important, the recommendation should be presented in court. However, the facts and the bail recommendation, with supporting

remarks and reasons, will have to be concisely presented on the Bail Recommendation Form, attached as Appendix D-1. The objective criteria point system should be a part of the process of arriving at a recommendation. If included on the recommendation form, however, it should be on the reverse side (See Appendix D-2), and not on the front.

Experience in many bail projects indicates that those which use objective criteria release more persons and have a lower failure to appear rate than those projects which recommend release on the subjective evaluation of the interviewer. The point system is a mental check list that forces the interviewer to look beyond the defendant's appearance and offense charged and to balance the many underlying facts relating to the probability that he will appear for trial.

1. Criteria.

   a. Exclusion. The bail project will NOT recommend release in the following cases.

      (1) Any person who has ever escaped from jail or a mental hospital.

      (2) Any person who has *willfully* failed to appear.

      (3) Any person who is *presently* under the influence of alcohol or drugs or is mentally disturbed.

      (4) Any person who has a detainer ("Hold"), outstanding bench warrant, or is fugitive.

      (5) Any person arrested after conviction for violation of probation or parole; or a person who has been sentenced.

      (6) Any person charged with murder, treason, or a violent or dangerous felony (unless strict supervisory conditions of release are imposed by the court.)

(7) Any person who has refused an interview, permission to verify, or where a conflict in information cannot be resolved.

b. Release on Personal Recognizance. To be recommended for release on personal recognizance (R.O.R. or O/R), a defendant needs:

(1) A verified area address (residence or employment) where he can be reached,

AND

(2) A total of 4 verified points from the following:

RESIDENCE (In Indianapolis Area; NOT on and off)

Points Int.	Ver.	
3	3	Present address 1 year, OR Present and Prior address 1½ years.
2	2	Present address 6 months, OR Present and Prior address 1 year.
1	1	Present address 4 months, OR Present and Prior address 6 months.
1	1	TOTAL TIME IN INDIANAPOLIS AREA of 5 years or more. (Not on and off)

FAMILY TIES

4	4	Lives with family, AND has frequent contact with other family member.
3	3	Lives with family.
2	2	Lives with non-family friend given as a reference, AND has frequent contact with family member.
1	1	Lives with non-family friend given as a reference, OR lives alone and has frequent contact with family member.

EMPLOYMENT OR SUBSTITUTES

Points Int.	Ver.	
4	4	Present job 1 year or more where employer will take back.
3	3	Present job for 1 year or more.
2	2	Present job 4 months where employer will take back, OR Present job and prior job 6 months where present employer will take back.
1	1	Present job for 4 months, OR Present and Prior job for 6 months, OR Current job where employer will take back, OR Unemployed 3 months or less with 9 months or more single prior job from which not fired for disciplinary reasons. OR Receiving unemployment compensation, welfare, etc. OR Full time student. OR In poor health (pregnant, physically impaired, under a doctor's care, etc.)

___ ___ = TOTAL NUMBER OF POSITIVE POINTS

CHARACTER

-1	-1	Prior negligent failure to appear while on bond--rearrest explained.
-5	-5	Presently on bond on another pending charge.
-2	-2	Definite knowledge of past drug use, OR present alcoholism.
-3	-3	Definite knowledge of present drug addiction.

PRIOR CONVICTIONS

Circle number of units on record and subtract corresponding points:
Felony--7 units; Misdemeanor--2 units; Juvenile "felony"--4 units.

\- ___

___ ___

Units	1 2	3 4 5 6	7 8 9 10 11 12 13	14 15 16 17 18 19 20	21 22 23
Points	0	-1	-2	-3	-4

___ ___ = TOTAL NUMBER OF NEGATIVE POINTS

___ ___ = TOTAL NUMBER OF POINTS (Positive less Negative)

Immediate Release:

If defendant meets the above criteria and the offense charged is within the category of offenses for which the court has authorized immediate release, the Bail Commissioner should double-check the date and time of the first court appearance and be sure the police processing has been completed. Then, the Bail Commissioner can release the defendant by executing the Release on Own Recognizance Form, Appendix E, in three parts, the original to the court, copy to the defendant, and copy to the police agency. The Bail Commissioner should make sure that the defendant has read and clearly understands the time and place of his first court appearance and the consequences that would result from his failure to appear.

c. Conditional Release. In all cases which do not fall within (a) Exclusion (i.e. no recommendation), or (b) Release on Personal Recognizance, a recommendation for conditional release will be made. The purpose of the conditional release program is to provide for the release of persons who do not meet the "point system" criteria, but who are likely to appear, if their deficiencies can be corrected by compliance with specific conditions imposed by the court and supervised by the project. Also, defendants with specific mental, drug, alcohol, family or employment problems can be referred to social service agencies as a condition of release. Defendants who present serious risks can be placed under strict probationary supervision.

If a defendant has failed to meet the required points because part of the information is unverified or his background data did not merit the minimum points, then such defendant shall be eligible for release subject to the following conditions:

(1) **Supervisory Custody.** If a defendant is non-recommendable but has a relative or friend present in court, or willing to come to court and accept custody of the defendant, or if there is an organization willing to accept custody, then a supervisory custody release should be recommended, provided that the custodian is responsible. An individual custodian must meet the qualifications for a personal recognizance recommendation with no negative points, and must have sufficient stability and control over the defendant to ensure his appearance in court and compliance with any other conditions.

This condition is normally imposed where the defendant has very weak family ties or is a youth (18-25). Custody Release can also be recommended to a suitable organization, such as a narcotic treatment center, alcoholic rehabilitation facility, mental health clinic, and job training or first offender programs as they become available.

The custodian must sign the conditional release form and agree (a) to supervise the defendant's compliance with any other conditions of release, (b) to use every effort to assure the defendant's appearance at trial, and (c) to notify the court or bail project immediately if the defendant violates any condition of release.

(2) **Residence.** If a defendant has residence deficiencies (off and on, stays with friends), then a condition of release should prescribe a place of abode in the area, reachable by telephone. If it will not be defendant's current address, such a residence can be arranged by asking a reference

or relative if the defendant can live with him while the case is pending and if the reference or relative is willing to report to the project if the defendant moves or does not comply with the condition.

It should be emphasized that the defendant must reside at the address and sleep there every night and regularly report by phone or in person to the project.

(3) **Employment or School.** If a defendant has employment deficiencies, then the recommendation to the court should include a condition that the defendant find a job within 15 days or enroll in a school or job training program and report such employment or school to the project. It should be made clear that failure to meet such condition could result in revocation of the release.

If the defendant has been employed for only a short time, the condition recommended should be that he maintain his present employment. If the defendant is deficient in a combination of residence and employment factors, then both of the conditions in (2) and (3) should be recommended.

(4) **Residence in Area.** If defendant is deficient in his length of residence in the area or has strong family ties in other areas, then the project should recommend the conditions in (2) and (3) plus the additional restriction that he stay within the area and not leave the jurisdiction without the court's permission.

(5) **Probationary Conditions.** If the defendant is non-recommendable because of his prior criminal history or he is presently on bond on another pending charge, then the recommendation should include the conditions in (1), (2), (3) and (4), plus the following conditions:

(a) Curfew--be in by a certain hour at the residence prescribed in (2).

(b) Stay away from the complaining witness--in all cases involving a crime against the person.

(c) Report for treatment--in all cases where defendant indicates use of narcotics or alcohol or mental problems.

(d) Not get arrested while on release--such arrest would be grounds for revocation of the present release order. This condition may be added generally in the release of youths, age 18 to 25.

(6) Part-Time (Work) Release. Under the Federal Bail Reform Act of 1966, 18 U.S.C. #3146 (a)(5), the judicial officer may "impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours." The 1970 Amendments which adopted "Preventive Detention," applicable only in the District of Columbia, changed the corresponding section, 23 U.S.C. #1321 (a)(5) to read "Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes." Those purposes are mentioned again in subsection (h), "the following shall be

applicable to any person detained pursuant to this subchapter:

. . . (2) The person shall be afforded reasonable opportunity for private consultation with counsel and, for good cause shown, shall be released upon order of the judicial officer in the custody of the United States marshal or other appropriate person for limited periods of time to prepare defenses or for other proper reasons."

Other reasons could include medical or dental care, or visiting sick relatives.

A specific order that a person awaiting trial return to jail after specified hours may raise serious constitutional questions. But, viewed from the practical reality that large numbers of jail inmates are awaiting trial unable to make money bonds, the part-time release for employment, consultation with counsel, or medical care would increase rather than limit pretrial freedom of an accused. If the court feels it has the inherent power within its discretion to use part-time or work release, it would certainly give the court greater flexibility in dealing with high-risk defendants while alleviating some of the serious handicaps of pretrial detention.

(7) Cash Bonds. Although the above non-financial conditions of release are generally considered as alternatives to money bonds, they can be combined with the requirement of a cash bond or surety bond. However, if a surety is compensated for the release of the defendant, the surety and not the court bail program should supervise the defendant while on release.

Rationally relating a specific dollar amount to the risks and complex problems of a defendant's background is nearly impossible, except to the extent that the amount is set so high that the defendant is detained. For this reason, many bail projects do not recommend an *amount* of bond on high-risk defendants, but, instead, they make no recommendation. However, a deposit of cash, which is refunded

when the case is closed, can provide to the defendant an additional incentive to return for trial. Thus, if the deposit of money is intended as a *release* condition, a cash bond or 10% cash deposit in an amount which the defendant can afford can reinforce and supplement the non-financial conditions of release.

(8) **Reporting.** The most important condition required of all persons on conditional release is that they report to the project by phone or in person at least once each week (or more often) as ordered by the court. Some projects require that *all* persons released on personal recognizance or cash bond report regularly. Not only is the personnel of a project usually too limited to handle this administrative burden but it may not be necessary for those highly qualified for release. However, for a defendant who needs the special supervision of a conditional release, the project can regularly remind him of his next court appearance and ensure compliance with other conditions each time that he reports.

(9) **The Release.** When conditional releases are recommended to the court, the project interviewer should prepare a release form, see Appendix F, and obtain the signatures of the defendant and custodian. If possible, a project representative should be in court to explain the recommendation to the court and the terms of the release to the custodian. The release signed by the court should be executed in four parts, with original to the court and copies to the project, defendant, and custodian. The defendant should be clearly warned that a violation of any condition can result in the revocation of his release.

D. **Court Action and Bond Review.** The court's action on the bail recommendation and the next continued date must be accurately and promptly reported to the bail project, by means of a copy of the court disposition sheet, (Appendix G-1) notation on the file by

the project's court representative, or a formal arraignment order such as that attached as Appendix G-2. The latter has the advantage that additional copies could be given to the defendant, prosecutor, and police notifying them of the next court date as well as the bail setting.

Within 24 hours, the project should review the jail book-in list and compare it with the previous day's work sheet and recommendations to determine if persons recommended for release, or qualified for release but not interviewed, are being detained because they are unable to make bond. If, after reviewing the defendant's background and his file, he is still considered qualified for release, the arraignment judge should be personally contacted by the project's court representative for a review of the recommendation and bail setting. Alternative conditions of release may be suggested. Special circumstances or comments by the judge should be noted on the file for future reference in case the defendant files a formal petition for bond reduction.

When a bond reduction petition has been filed by the defendant and the court requests a bail recommendation, the interviewer should check the project's alphabetical index or interview index to find any previous interviews and recommendations. After reviewing these files with the defendant and seeking additional verification, (or, taking a complete interview if none was previously taken) a new recommendation should be forwarded to the court.

E. Notice and Supervision. If the defendant is highly qualified for release, has an attorney, and receives a written reminder of the time and place of the next appearance from the judge in court, a complex and expensive system of mail and telephone notice of all court dates may be unnecessary. The slight difference in no-show rates by giving such notice to all defendants may not justify the additional expense.

However, if the defendant initially presented sufficient risks that conditions were imposed on his release, then regular reporting and contact by phone or in person should be used not only to check compliance with the conditions imposed but also to remind the defendant of his court appearances. As soon as

information is received that the defendant has missed a court appearance or has violated a condition of release, the project IMMEDIATELY should contact (1) the defendant, (2) the verification reference or custodian, (3) his family, (4) his attorney, (5) his employer, and any other sources of information to ascertain the reasons for his failure to appear or to comply with conditions. If the failure to appear cannot be explained or corrected, the file should be referred for No-Show Investigation and Enforcement Procedures. If there was no failure to appear in court but only a violation of a release condition, then the procedures used in reporting condition violators should be used.

1. Supervision of Release Conditions. When persons released conditionally report to the project, detailed information on their current status should be recorded on the Report on Change of Address or Employment Form, Appendix H, or it can be recorded on a Telephone Message Log, Appendix I. In either case this record must be transferred to the defendant's file.

   Upon receipt of the court's release order, the project will fill in the necessary information on a Release on Conditions Form, Appendix J, on which compliance will be noted. A more complex system for a large volume of supervised cases uses a carbon copy for each separate condition, so that separate condition files may be kept alphabetically.

   If a defendant violates any of his conditions of release, the judge who imposed the condition is immediately notified in writing (Appendix K). The judge then has several options open to him, ranging from a mere warning if the violation is not serious, through changing the conditions of release to meet changed circumstances, to revoking the release and imposing a money bond if the violation is serious or punishing the violator for contempt. In any case, the defendant is required to appear in court to explain his actions which gives the defendant a hearing and allows the court to effectively enforce the conditions.

If a defendant is arrested on a subsequent offense while on conditional release, the project will advise the judge who set the original conditions as well as the judge hearing arraignments on the subsequent charge on the Report of Arrest While on Release Form (Appendix L). Also, a subsequent arrest mandates an immediate check of compliance with previous conditions of release. A defendant who has violated those conditions cannot be recommended for a second conditional release.

A properly executed conditional release program will help to remove some of the inequities of the money bail system while protecting the community from those who might flee or commit additional offenses.

F. **Records and Filing Systems.** The systems of filing and keeping records vary according to the budget, staff, and objectives of each bail project. However, the method chosen should efficiently provide (1) a system to follow each case through all appearances and reporting requirements to final disposition; (2) the ability to find any case, open or closed, alphabetically or by index number; and (3) significant data for self-evaluation and the compilation of statistics and reports.

1. **Follow-up Files.** A suspense file system advances the interview folder to the next continued court appearance or reporting date and records all relevant data on the folder, which is transferred from the daily court disposition sheets. In those cases where cases become "lost" or are continued indefinitely, a follow-up in the Clerk's Office should be made periodically from a list of such cases on the form attached as Appendix M.

2. **Index of Interviews.** Quick access to previous interview files can be provided by an alphabetical file of a copy of the recommendation form. This not only gives specific data to use for verification but shows the interview number by which the original file can be located. The Index of Interview, Appendix N, lists serially by interview number (and nearly chronologically) the name, recommendation class, court, whether the case is completed, and (under "Remarks") whether the defendant was found guilty,

failed to appear, and bond costs saved.

3. **Statistics and Reports.** Bail projects, whether new and experimental or well-established, must constantly evaluate their own performance as well as provide periodic progress reports to the court and to the agencies or organizations which support them financially.

The most obvious evaluation of performance is to analyze the total number of persons interviewed by category of recommendation: (a) released immediately on O/R, (b) recommended for O/R in Court, and (c) not recommended for O/R, by compiling the number and percentages of no-shows and fugitives in each category. The final dispositions will show the number that were found not guilty or had their charges dismissed and the number who eventually received executed jail time.

The most obvious cost benefits of the project are the savings in bail bond premiums to those released on O/R, which can easily be totaled by referring to the court's standard bond schedule setting the amount of bail that would have been required for the offense charged.

Savings in jail costs of pretrial detention are more difficult to identify specifically. However, the total days that cases are continued, reduced by the percentage that would have normally remained in jail unable to post bond, can be multiplied by the average costs of detention, the average expenses for food only, or the contract price of housing a federal prisoner per day, to arrive at various estimates of savings in jail costs. In addition, the reduction in number of inmates awaiting trial over a given period of time can be readily documented.

Studies of arrests for crime on bail are more difficult and time consuming, but a rough calculation can be made from the daily work sheet if the status column accurately reflects those who are arrested that have other charges pending.

The statistical evaluation of a bail project must be tailored to the budget, staff, case load, records available, and objectives of the courts served. But it is essential

to compile the best statistics possible in order to maintain the confidence of the courts and continued financial support.

G. No-Show Investigations and Enforcement. When a "rearrest" entry on the court disposition sheet indicates a "no-show" by any person who has been interviewed, in any category of recommendation (A - O/R, B - Rec O/R, C - Not Rec, D - Condl. Rel.) the following procedures should be followed:

1. Copy on the "No-Show Report," Appendix O, as much information as is available from the folder and disposition sheet.

2. Check with the Clerk's Office to verify that a rearrest has been entered on the docket and that a warrant has been issued. (Frequently, the rearrest will not be entered because the defendant came in later, a mistake in court time was made, or the attorney has filed written pleadings.)

3. If the no-show is confirmed by the Clerk's docket, Xerox two copies of the Report and all papers in the folder. One copy should be indexed according to the date of interview and category of recommendation and filed in the permanent No-Show file. (The No-Show number is assigned in sequence by the month of interview and category of recommendation, i.e., "June - 8 A".) The other copy is given to the investigator or interviewer.

4. Initiate investigation by calling the defendant personally. Ask *why* he didn't show up and encourage him to go to the court (give him the cause number) as soon as possible to have the matter disposed or redocketed in order to avoid arrest on the warrant which would require the posting of a money bond. If he says the matter has been taken care of, get specific details on the date and exact disposition on each charge. Then, call the Clerk's Office and verify the disposition or current status.

5. If defendant cannot be reached, call verification references, family, and employer until you locate the defendant and get an explanation for his failure to appear.

6. Send an extra copy of the recommendation sheet (if there are no extras in the interview folder make a Xerox copy of the recommendation sheet) to the lock-up to be filed alphabetically in the "WANTED" file. CLEARLY mark this as a "FUGITIVE" and state date of No-Show, court cause number, and amount of the rearrest bond. It is the duty of the lockup Bail Commissioner to check this file whenever a rearrest appears on any Criminal History Sheet of any arrestee and to make sure that the rearrest warrant is served. Pull the "Wanted" file copy of the recommendation sheet and place it in the daily work folder with a note to the Project Director.. Also, write a note on the Criminal History Sheet to the Court, calling its attention to the outstanding rearrest so it can be served in court if the police warrant section does not have a copy of the warrant in its file which can be served in the lockup. If there is any question as to the current status of a charge appearing on a Criminal History Sheet with a "rearrest" entry, call central records and ask for the status of the charge under the police case number which is in the left-hand columm of the Criminal History Sheet. Then call the Clerk's Office, rearrest clerk, to have the warrant served or have a new warrant issued if none is on file.

7. All cases in the permanent no-show file should be reviewed and updated monthly.

8. If the defendant is located at a definite residence address, phone number, or employment, immediately notify the Project Director and prepare a memorandum, Appendix P, in duplicate, to the police warrant section, stating the name (including aliases), current address or location and phone number, employment, and the offense charged, court cause number, police case number (if available), amount of rearrest bond, date of failure to appear, location of the rearrest warrant to be served (if possible get copy from clerk and attach it to the memorandum). When

memo is returned with results of action by the police department, place it in the permanent No-Show file.

9. When investigation is complete, be sure the original report in the permanent No-Show file has a record of all the details and final disposition or status. Then return the duplicate copy to the interview folder, which will then be sent to data processing.

10. Apprehension. Some bail projects have their own apprehension units with personnel who are authorized to serve arrest warrants and return to custody, forcibly, if necessary, those who willfully fail to appear or violate conditions of release. Other projects have had satisfactory results by working in close cooperation with police agencies. In some instances, officers are assigned specifically to serve bench warrants or the police agency has a warrant squad. Apprehension by force should be carried out only by trained and experienced law enforcement officers. When direct or indirect personal contacts and warnings have not persuaded the defendant to return to court voluntarily, the bail project should give all background information obtained from the interview, verification, and its own no-show investigation, to the warrant squad or other appropriate police agency. If defendant is in custody on other charges, the project should assist in sending the warrants to the police agency having custody and in redocketing the pending case on which the defendant failed to appear.

H. Pretrial Services. Large numbers of arrestees are alcoholic, addicted to drugs, mentally and physically ill and unemployed. Many need court-appointed counsel as well as a wide range of social services. Most of these are not good candidates for release on money bail or O/R. But, through the conditional release program, the bail project can arrange for custodial treatment or rehabilitation by organizations or agencies available in the community and can receive reports to the court on the defendant's progress.

1. Eligibility for Appointment of Defense Counsel. A major cause of delay in criminal cases can be eliminated by having

defense counsel appointed for indigent defendants at the first court appearance. During its bail interview, the bail project can verify the underlying facts and obtain from the defendant an affidavit stating his financial status and his desire to have counsel appointed. (See Appendix Q). With such information, the court, at the arraignment or preliminary hearing, can appoint counsel, or the court may decide that the defendant is not indigent and advise him that he will have to hire his own attorney.

2. **Treatment of Drug Addicts, Alcoholics and Mentally Ill.** The pretrial referral for treatment of addicts, alcoholics and the mentally ill will depend on the availability and cooperation of agencies or hospitals in the community. The organization responsible for treatment should accept custody on a conditional release, and provide regular reports to the court or the bail project. Such organizations can range from private and public rehabilitation programs and detoxification centers to mental hospitals and residential narcotics treatment facilities with a high degree of security.

3. **Court Employment and Diversionary Programs.** The purposes of a court employment program are to strengthen the community ties of a defendant and to give the accused an opportunity to begin his rehabilitation at the earliest possible time so that, if found guilty, he might qualify for probation. It may also reduce the likelihood that he will repeat his offenses. Such programs usually concentrate on youthful first offenders not charged with serious felonies or commercial vice. If the defendant performs well in a three- to six-month period before trial, the prosecutor may choose to dismiss the charges. The success of such a program will depend on the social service agencies who can provide counseling, job training and placement assistance. On a limited basis, some bail projects may try to operate such a program through their own staff.

V. COURT RULES ON BAIL AND PRETRIAL SERVICES

Specific examples of court rules from several cities can be provided on request. Following is a combination of provisions drawn from the Illinois Statutes, Federal Bail Reform Act, and Court Rules in Philadelphia and Marion County.

IN THE MUNICIPAL (CITY, CIRCUIT, SUPERIOR) COURT

OF _____

COURT RULES ON BAIL AND PRETRIAL SERVICES

The following rules pertaining to bail and pretrial services are hereby adopted and henceforth shall be applicable in all cases where persons are admitted to bail when the offenses charged are within the jurisdiction of the above court.

Rule 1. Release Pending Trial

A. Any person charged with a bailable offense shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above method of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial, or, if no single condition gives that assurance, any combination of the following conditions:

1. Place the person in the custody of a designated person or organization agreeing to supervise him.

2. Place restrictions on the travel, association, or place of abode of the person during the period of release.

3. Require the execution of a bail bond in a specified amount.

4. Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes.

B. In determining which conditions of release, if any, will reasonably assure the appearance of a person as required, the judicial officer shall on the basis of available information take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against the person, his family ties, employment, financial resources, character and mental conditions, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings, flight to avoid prosecution, or failure to appear at court proceedings.

Rule 2. Bail Bond: Ten Per Cent Cash Deposit Security

A. Any person for whom a bail bond has been set may satisfy the bond by executing the bail bond and depositing with the clerk of the court before which the proceeding is pending a sum of money equal to ten per cent (10%) of the bail, but in no event shall the deposit be less than twenty-five dollars ($25.00).

B. Upon execution of the bail bond and deposit of the required sum of money, the defendant shall be released from custody subject to the conditions of the bail bond. The court may designate the court bail agency to supervise the defendant. Where the defendant has failed to comply with his conditions of release or with the rules and regulations of the court bail agency, he may have his release revoked and he may be brought before the court who shall determine if additional bail shall be set.

C. When the conditions of the bail bond have been performed and the defendant has been discharged from all obligations in the cause the clerk of the court shall return to the defendant, unless the court orders otherwise, ninety per cent (90%) of the sum which has been deposited, and shall retain as bail bond costs ten per cent (10%) of the amount deposited. However, in no event shall the amount retained

by the clerk as bail bond costs be less than five dollars ($5.00).

D. After a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a deposit has been made in accordance with Subsection A, the balance of the deposit, after deduction of bail bond costs, may be applied to the payment of the judgment.

E. At the request of the defendant, the court may order ninety per cent (90%) of the bail deposit, or whatever amount is repayable to defendant from the deposit, to be paid to the defendant's attorney of record.

F. If the person does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed to the defendant at his last known address. If the defendant does not appear and surrender to the court having jurisdiction within thirty (30) days from the date of the forfeiture or within that period satisfy the court that appearance and surrender by the defendant is impossible and without his fault, the court shall enter judgment against the defendant for the amount of the bail. The deposit made in accordance with Subsection A shall be applied to the payment of the judgment, the balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

G. The ten per cent (10%) bail bond costs so collected by the clerk shall be deposited in a separate account in a depository duly designated by the State Board of Finance, and on or before the fifteenth day of the month following the month in which collections are made, the clerk shall report and remit the collections to the County Treasurer. The County Treasurer shall deposit the funds in a separate fund called the "Bail Agency and Pretrial Services Fund." The fund may be expended, subject to the approval of the court. Any amounts remaining in the Bail Agency and Pretrial Services Fund at the end of any fiscal year shall not revert to the General Fund, but shall continue in the Bail Agency and Pretrial Services Fund.

H. **Form of Undertaking:**

BAIL BOND WITH TEN PER CENT CASH DEPOSIT SECURITY

STATE OF INDIANA)
) SS:
COUNTY OF)

IN THE _____ COURT
OF _____ ROOM _____
CAUSE NO. _____

STATE OF INDIANA

VS.

_____ OFFENSE CHARGED _____
Defendant

The undersigned _____, acknowledges he is bound to the State of Indiana in the sum of _____ Dollars. He has deposited with the Clerk of the Court, in cash, ten per cent of said bail bond. If he shall appear in the _____ Court to answer the charge _____ at all times and comply with all conditions as ordered by the court until said cause is finally determined and not depart therefrom without leave, then this bail bond shall be void, else to remain in full force.

If defendant shall not appear at any time fixed in this bond, the court shall thereupon declare this bond to be forfeited and notice of forfeiture shall

be mailed to defendant at _____ and _____ at _____, Indiana. If the defendant does not appear within thirty (30) days from the date of forfeiture and satisfy the court that his absence was not willful, then the court shall enter judgment for the State against the defendant and certify the judgment to the clerk for record. Forfeitures shall be without pleadings and without change of judge or change of venue. The obligor on such bond may except to the ruling of the Court and appeal to the Court of Appeals as in other civil cases, and on appeal the evidence may be reviewed. Execution shall issue forthwith by the Sheriff against the properties of the defendant to be levied as other executions are levied.

When the conditions of this bail bond have been performed and the defendant has been discharged from all obligations in this cause, the clerk of the court shall return to the defendant unless the court orders otherwise, ninety per cent (90%) of the sum which has been deposited, and shall retain as bail bond costs ten per cent (10%) of the amount deposited. However, in no event shall the amount retained by the clerk as bail bond costs be less than five dollars ($5.00).

Witness my hand and seal this _____ day of _____, 19___.

_____ (Seal)
Defendant

Taken and approved this _____ day of _____, 19____.

_____
Officer taking the Bail Bond

Rule 3. Bail Agency and Pretrial Services

A. There is hereby created a bail agency (hereinafter referred to as the agency).

B. The agency shall, except when impracticable, interview any person who has been arrested and detained and charged with an offense punishable in Indiana, and who is to appear before any judicial officer for a bail determination. The agency shall have access to any jail or lockup to interview any person detained as soon as practicable after the arrest of such person. The agency shall seek independent verification of information obtained during the interview, shall obtain such person's prior criminal record which shall be made available by the appropriate law enforcement agencies, and shall prepare a written report of such information for submission to the appropriate judicial officer. The report shall include, but not be limited to, information concerning the person to be released, his family, community ties, length of residence, employment, financial resources, prior criminal record, failure to appear at court proceedings, and may include such additional verified information as may become available to the agency. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released under any condition specified in Rule 1 A. If the agency does not make a recommendation, it shall submit a report without recommendation.

C. Information contained in the agency's files or presented in its report or which shall be divulged during the course of any hearing on a bail determination, shall be used only for the purpose of a bail determination or of locating and returning a person who has failed to appear as required, and shall not be admissible in evidence against the accused, and shall not be subject to court process for use in any other proceedings; provided, however, that all testimony and exhibits and the contents of all reports and documents

which are submitted to the judicial officer for use and consideration in a bail determination shall be available to both the defendant and the prosecutor for use to impeach any witness upon the trial of the defendant, and for use upon the trial of any person upon a charge of perjury.

D. The agency shall:

1. Supervise all persons released on conditions.

2. Make reasonable effort to give notice of each required court appearance to persons released by the court who are to be supervised by the agency.

3. Serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility, availability, and capacity of such agencies and organizations.

4. Inform the judicial officer and the prosecutor of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate.

Rule 4. Executive Committee

A. The agency shall function under the authority of and shall be responsible to an Executive Committee. The Executive Committee shall be composed of the judges of all courts of criminal jurisdiction in the county, or the designee of any criminal judge. The Chairman of the Executive Committee shall be elected by the other members of the committee.

B. The Executive Committee shall approve the budget and expenditure of funds from the "Bail Agency and Pretrial Services Fund" created by Rule 2, appropriated by the county council, or received as gifts or grants.

Rule 5. Bail Commissioners

A. Any court exercising criminal jurisdiction in the county may appoint Bail Commissioners from the staff of the bail agency and may delegate to the Bail Commissioners the authority to set conditions of release upon accused persons.

B. The court shall specify the conditions of release which the Bail Commissioner shall be authorized to impose and the types of offenses for which the Bail Commissioner may authorize release.

These rules supersede all previous rules and other orders inconsistent herewith.

Adopted and Ordered on this _____ day of _____, 19____.

_____

Judge of _____ Court

Appendix B - 1

No. 48706 **MARION COUNTY PRE-TRIAL SERVICES INTERVIEW** By_____ Time_____ AM PM | MO. | DAY | YR.

NAME_____ (LAST - FIRST - MIDDLE - ALIAS) | AGE | SEX | RACE | D.O.B._____

PRESENT ADDRESS_____ (NO. - STREET - APT. NO. - CITY - STATE - ZIP - PHONE - (WHOSE)) For_____ MO. YR.

Type: Own/Buy Home Rent Home Apt. Room Trailer Other_____ Amount Pay $_____ Wk. Mo. Make Own Pyts. Y N Land Lord_____

Relation of Persons Live With_____ Stay Every Night? Yes No_____

PREVIOUS ADDRESS_____ (NO. - STREET - APT. NO. - CITY - STATE) Type_____ For_____ MO. YR.

Lived With_____ On & Off Y N Why Moved_____

INDIANAPOLIS AREA RESIDENT FOR_____ yrs. On & Off: NO___ YES___ OTHER AREAS LIVED IN_____

MARITAL STATUS: Single Married Divorced Separated Widowed for_____ mos. yrs. Spouse Name_____ Phone_____

No. of Children_____ Age_____ Address of Children_____ No. Persons Support_____ Support Payments $_____ Pay Mo. Rcd.

RELATIVES, FRIENDS AND REFERENCES FOR VERIFICATION AND SUPERVISION

NAME	ADDRESS	PHONE	WORKS	RELATION	OFTEN SEEN	KNOWN
						Mos. Yrs.
						Mos. Yrs.
						Mos. Yrs.
						Mos. Yrs.

PRESENT EMPLOYER_____ (NAME - ADDRESS - PHONE) For_____ Mos. Yrs.

Type of Work_____ Supervisor_____ Last Day Worked_____ Average Income $_____ Wk. Mo. Verified Empl. By_____

PREVIOUS EMPLOYER_____ For_____ Mo. Yr. Type_____ Why Left_____

HOW LONG UNEMPLOYED_____ Mos. Yrs. How Now Supported: Part Time_____ Unemp. Comp._____ Soc. Sec/ Welfare_____ Relatives_____ Other_____

EDUCATION COMPLETED_____ Student at_____ Full Time | Part Time | JOB TRAINING | Now | Prior Type_____ Dates_____

Serious Disability_____ Spouse Employed_____ For_____ Mos. Yrs.

Military Experience: None/Now/Prior from_____ to_____ Service Organization_____ Type Discharge_____

Remarks_____ S.S.A.N.:_____

Owns/Drives Motor Vehicle: Make_____ Yr._____ Color_____ Lic. No._____ Value_____ Loan_____

Bank Account at_____ Amount $_____ Type_____ Cash on Hand $_____ Can Afford Bail $_____

Other Income: Rent, Pension, Interest or Dividends, etc. Source:_____ Amount $_____

Property Owned: (ADDRESS)_____ Value $_____ Mortgage $_____ Equity $_____

Other Property_____ Value $_____ Loan $_____ Bal. Due/Pyts._____

DEBTS: Owed to:_____ Amount $_____ Remarks_____

ATTORNEY: (NAME)_____ ☐ Can afford private atty. ☐ Requests court apptd. counsel – Indigent

Now Under Doctor's Care for_____ Where_____ Kind of Treatment_____

Mental Health Treatment Now Prior Where_____ When_____ to_____ Reason_____

Drug Use Now Prior Kind_____ How Often_____ Last Taken_____ Test Addict_____

Past Treatment: Type_____ Where_____ When_____ Desires Referral_____

Alcoholism Now Prior_____ Treatment_____ Desires Referral_____

Indications of Alcoholism, Drug Addiction or Mental Disturbance_____

Date and Time of Arrest_____ AM PM Place of Arrest_____ Charges_____

Circumstances_____ Victim_____

Pending Charges_____ Bond_____ Court_____ Date Due_____

Ever on Bond for Previous Charge Disposed of: No Yes Amount $_____ Charge_____

Previous Failure to Appear: Date_____ Charge_____ Explain Default_____ Disposition_____

Probation or Parole Now Charge_____ When_____ to_____ Where_____ Supervised By_____

Probation or Parole Prior Charge_____ When_____ to_____ Where_____ Satisfied/Revoked_____

No. of Prior Arrests_____ No. of Prior Convictions_____ Felony_____ Misdemeanor_____

WHEN	CHARGES	WHERE	DISPOSITION

Release of Information: I hereby authorize verification of this information with the above references and release of this information to the Bail Commissioner, the Marion County Municipal and Criminal Courts, the Prosecuting Attorney, and TASC, only for the purpose of setting the conditions of my release or for returning me to court if I violate any conditions of my release.

Signature of Defendant_____

Have You Made A Phone Call? Y N: If No, Why Not_____ To Whom_____ Arrangements_____

REMARKS:_____

APPENDIX C

BAIL DETERMINATION INTERVIEW

NAME: _____

AGE: _____ BIRTH: Date _____ Place _____

How long have you lived in this area? _____ Other Areas _____

Home Address: _____ For how long? _____ mos./yrs.

Living With _____ Home Phone No. _____

Prior Address _____ For how long? _____ mos./yrs.

Lived With _____ Reason Moved _____

Marital Status: Single ( ) Married ( ) Separated ( ) Divorced ( ) Widowed ( )
For ___ mos./yrs.

Present Employer _____ For _____ mos./yrs.

Type of Work _____

Name of Supervisor _____ Work Phone No. _____

If Unemployed, How are you supported? _____ For how long? _____ mos./yrs.

Are you presently on Probation or Parole? _____

Are you presently on Bond in any other case? _____

Are you under medical care? _____

List the Names, addresses, relationships, telephone numbers of family or friends who can verify the above information:

NAME	ADDRESS	RELATION	PHONE NO.

DO NOT WRITE BELOW THIS LINE _____

VERIFIED: Address _____ Time in Area _____ Family Ties _____
Employment _____ Status _____ By _____
Name

Remarks _____

Recommendation _____ Reason _____

_____
Signature

App. B-2

No 48716

VERIFICATION: Checked by _____ References Checked With _____ Why not Verified _____

NAME OF REFERENCE	ADDRESS	PHONE	WORKS	RELATION	OFTEN SEEN DEF.?	KNOWN DEF. FOR

Pres. Address of Arrestee _____ How Long _____ Mo. Yr. Lives With _____ On & Off

Prev. Address of Arrestee _____ How Long _____ Mo. Yr. Lived With _____ Why Moved _____

Indianapolis Area Resident for _____ yrs. Off & On Other Areas _____

Marital Status _____ for _____ mos.)yrs. Children _____ Supports _____

Other Family, Friends and References:

NAME	ADDRESS	PHONE NO.	WORKS	RELATION	OFTEN SEEN

Def.'s Present Employment _____ ADDRESS _____ PHONE NO. _____ for _____ mos. yrs. Good Worker: Y N

Type of Work _____ Last Day Worked _____ Supervisor _____ Will Take Back: Y N

Previous Employment _____ for _____ mos. yrs. Type of Work _____ Reason Left _____

If unemployed How Supported _____ Education _____

Now Under Doctor's Care for _____ Where _____ Kind of Treatment _____

Mental Health Treatment Now Prior Where _____ When _____ to _____ Reason _____

Drug Use Now Prior Kind _____ How Often _____ Last Taken _____ Addict _____ Test _____

Past Treatment: Type _____ Where _____ When _____ Desires Referral _____

Alcoholism Now Prior _____ Treatment _____ Desires Referral _____

Pending Charges _____ Bond _____ Court _____ Date Due _____

Previous Failure to Appear: Date _____ Charge _____ Explain Default _____ Disposition _____

Probation or Parole Now Prior Charge _____ When _____ to _____ Supervised by _____ Satisfied/Revoked _____

No. of Prior Arrests _____ No. of Prior Convictions _____ Felony _____ Misdemeanor _____

ATTORNEY: _____ NAME ☐ Can afford Atty. ☐ Requests Court Apptd. Counsel - Indigent _____

REFERENCE WILL ASSURE COURT APPEARANCE Y N WILL SIGN AS CUSTODIAN Y N CAN MAKE BAIL OF $ _____

COMMENTS _____

POLICE RECORDS: Source Checked _____ Agency _____ Officer/Detective _____ Case No. _____

Quantity or Value of Property or Drugs _____ Serious Injuries _____

Complaining Witness _____ Circumstances _____

Criminal History: Source _____ Gallery or I.D. No. _____ No. of Prior Arrests _____

No of Convictions _____ Felony _____ Misdemeanor _____ Previous Charges not Disposed _____

Re-Arrests (No Show) _____ Probation _____ Parole _____ Drunk _____ Mental _____

WHEN	CHARGES	WHERE	DISPOSITION

RECOMMENDATION 1. ☐ Released on O/R from Lock-Up By _____ 2. ☐ Rec O/R, NOT released on O/R from Lock-Up

Amount of Bond from Lock-Up $ _____ Cash/Surety. Set by _____ Made Bail from Lock-Up _____

3. ☐ NOT Recommended for O/R. Reason NOT Released or NOT Recommended _____

☐ Amount and type of Bond recommended: $ _____ Cash; $ _____ Surety

Total Points: Int. _____ Ver. _____

4. ☐ Release Subject to Conditions _____

COURT ACTION ON BAIL. ☐ O/R — Personal Recognizance ☐ $ _____ Cash or Surety Bond ☐ Release Subject to Conditions

_____ JUDGE Atty. _____ Date Made Bail _____ Bond Change _____

DISPOSITION: Court & Cause No. _____ Continued: _____

Change of Court or Cause No. _____ Lost on: _____

Disposition Date _____ 1. G 2. N/G 3. Dis. _____ 4. B/O 5. Capias 6. Cr. G. 7. Cr. N/G 8. Cr. Dis. 9. Other _____

Sentence Date _____ 1. Fine _____ Costs _____ Paid/Suspended _____ 2. Jail _____ Exec./Susp. _____

3. Probation: _____ 4. Other _____

Failure to Appear Date: _____ Why _____ Bail on Rearrest Warr. $ _____ Date Warr. Sent _____

☐ Def. voluntarily appeared or ☐ def. was rearrested, at _____ Made Bail? _____ Disp. _____

No-Show Report made on _____ Investigated _____ Status _____

Reason for Failure to Appear _____ 1. No Fault 2. Negig. 3. Willful 4. S & L

SUPERVISION: Def. Reported _____

Conditions of Release not complied with _____ Violation Report sent on _____ Court Action _____

Def. was arrested for a subsequent offense on _____ Charge _____ Bail _____ Disp. _____

COURT SERVICES: Defendant was referred to _____

Follow-up or Comments: _____

Type of Rec.: Court Set Bail:

1	2	3	4
R.O.R.	Rec. O/R	No Rec.	Cond./Rel.

Name _____ Offense _____ Court & Cause No. _____ Status/Disp.: _____ Cont'd. _____

BAIL RECOMMENDATION | Age | Sex | Des. | D.O.B. | Time ____ AM PM | Int. By ____ | Int. Date Mo. Day Yr. | Int. No. 48706

NAME ____ (LAST / FIRST / MIDDLE / ALIAS) TO: Court ____ Time ____ AM P.M. | Mo. Day Yr.

Charged Offense ____ Cause No. ____ Court Date

APPENDIX D-1

RESIDENCE: Police ____ **VERIFIED BY**

Present Address ____ for ____ mos. yrs.

Lives with ____ Phone No. ____

Previous Address ____ for ____ mos. yrs.

Lived with ____ Off & On Other Areas ____ Indianapolis Area Resident for ____ yrs.

FAMILY TIES: Marital Status ____ for ____ mos. yrs. Children ____ Support ____

Other Family, Friends and References:

NAME / ADDRESS / PHONE NO. / WORKS / RELATION / OFTEN SEEN

EMPLOYMENT:

Present Employment ____ (ADDRESS / PHONE) for ____ mos. yrs.

Type of Work ____ Last Day Worked ____ Supervisor ____ Will Take Back: ____

Previous Employment ____ for ____ mos. yrs. Type of Work ____ Reason Left ____

If unemployed How Supported ____ Education ____

HEALTH: Now Under Doctor's Care for ____ Where ____ Type of Treatment ____

Mental Health Treatment: Now / Prior Where ____ When ____ to ____ Reason ____

Drug Use Now / Prior Kind ____ How Often ____ Last Taken ____ Addict ____ Test ____

Past Treatment: Type ____ Where ____ When ____ Desires Referral ____

Alcoholism Now / Prior ____ Treatment ____ Desires Referral ____

CHARACTER: Pending Charges ____ Bond ____ Court ____ Date Due ____

Previous Failure to Appear: Date ____ Charge ____ Reason ____ Disposition ____

Probation or Parole Now Charge ____ When ____ to ____ Supervised By ____

Probation or Parole Prior Charge ____ When ____ to ____ Where ____ Satisfied/Revoked ____

PRIOR CONVICTIONS: No. of Prior Arrests ____ No. of Prior Convictions, Felony ____ Misdemeanor ____ POLICE RECORDS:

WHEN / CHARGES / WHERE / DISPOSITION

ATTORNEY: ____ (NAME) ☐ Will hire own attorney ☐ Requests Public Defender ☐ No request for counsel

FINANCIAL STATUS: Amount pays for Housing & Utils. $ ____ mo. Makes own Payments ____ Pays Support $ ____ mo. TOTAL DEBTS $ ____

Motor Vehicle ____ Yr. ____ Present Value $ ____ Balance Owed $ ____ Monthly Payment $ ____ Other Monthly Payment $ ____

Average Net Income $ ____ mo. Other Income or Support $ ____ mo. Cash $ ____ Bank Accounts $ ____ Property Owned ____ Value $ ____

Under the penalties for perjury, I hereby affirm that I am without adequate funds to hire a lawyer, and I request that the court provide counsel for me. The above statements of my financial status are true and complete to the best of my knowledge.

Signature of Defendant ____

Release of Information: I hereby authorize verification of this information with the above references and release of this information to the Bail Commissioner, the Marion County Municipal and Criminal Courts, the Prosecuting Attorney, Public Defender, and TASC, only for the purpose of setting the conditions of my release or for returning me to court if I violate any conditions of my release.

Signature of Defendant ____

REMARKS: ____ Total Points: Int. ____ Ver. ____

RECOMMENDATION:

☐ O/R—Release on Personal Recognizance 1. ☐ Released on O/R from Lock-Up By ____

2. ☐ NOT released on O/R from Lock-Up, Amount of Bond from Lock-Up $ ____ Cash/Surety. Set by ____

3. ☐ NO Recommendation Reason ____

4. ☐ Release Subject to Conditions ____

☐ Amount and type of Bond recommended: $ ____ Cash; Surety

____ BAIL COMMISSIONER

COURT ACTION ON BAIL:

☐ O/R — Personal Recognizance ☐ $ ____ Cash or Surety Bond ☐ Conditional Release ____ JUDGE

COURT SERVICES COPY

APPENDIX E-1

STATE OF INDIANA }
COUNTY OF MARION } SS:

IN THE MUNICIPAL COURT
OF MARION COUNTY

RELEASE ON OWN RECOGNIZANCE

I, _____, the undersigned, hereby acknowledge that I am being released from custody on my own personal recognizance, and I hereby promise to appear for trial in the Municipal Court of Marion County, _____, at ____o'clock, A.M./P.M., on _____, 1971, and at all other times as directed by the court until such cause is determined, to answer to the offense of _____

_____

I understand that failure to appear at the above stated time or times as required will result in the immediate issuance of a warrant for my arrest.

_____
(Signature of Defendant)

Date: _____

_____
(Signature of Person releasing)

COURT ADDRESSES

MUNICIPAL COURTS NOS. 3, 4, 5, 6, 9, & 10: 6th floor, east wing of City-County Building, 50 N. Alabama St., Phone 633-2876

MUNICIPAL COURTS NOS. 11, 12, 13, & 14:
No. 11 4749 Richardt, Lawrence, Phone 547-1820
No. 12 802 Main St., Beech Grove, Phone 786-8353
No. 13 -- 2320 South Tibbs, Maywood, Phone 241-1803
No. 14 - 1410 No. Lyndhurst Dr., Speedway, Phone 241-1661

APPENDIX F

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

MARION COUNTY
MUNICIPAL COURT

INTERVIEW NO. _____

DEFENDANT'S NAME _____ DEFENDANT'S ADDRESS _____ PHONE NO. _____

CHARGED OFFENSE: _____ CAUSE NO. _____

YOU ARE HEREBY RELEASED ON THE CONDITIONS INDICATED BELOW:

OWN RECOGNIZANCE

☐ PERSONAL RECOGNIZANCE. Your personal promise to appear at trial and at all other times as directed by the court until such cause is determined.

MONEY BOND of

$ _____

☐ CASH BOND. Upon deposit with the clerk of the court the required sum, to be forfeited should you fail to appear as required, or to be refunded after disposition of the case.

☐ SURETY BOND. Upon execution of an appearance bond with approved surety.

YOU ARE RELEASED ON THE FOLLOWING ADDITIONAL CONDITIONS INDICATED BELOW:

☐ 1) **SUPERVISORY CUSTODY**

You hereby agree to be placed in the custody of ▷ _____ CUSTODIAN'S NAME
who agrees (a) to supervise you in accordance with the conditions below, (b) to use every effort to assure your appearance at trial, and (c) to notify the Indianapolis Bail Project immediately in the event you violate any condition of release or disappear. Project telephone is 633-7704 or 264-4987.

_____ CUSTODIAN'S ADDRESS

_____ CUSTODIAN'S PHONE NO.

SIGNATURE OF CUSTODIAN ▷ _____

☐ 2) **YOU ARE TO REPORT**

☐ WEEKLY ☐ BY PHONE
☐ _____ OTHER-SPECIFY ☐ IN PERSON

TO: Bail Commissioner
Fifth Floor East Wing
City-County Building
50 N. Alabama St.
Indianapolis, Indiana
633-7704 or 264-4987

☐ 3) **YOU ARE TO LIVE**

☐ at _____ address _____ phone number

☐ with _____ name and relationship to defendant, being in at night by _____ time PM

☐ 4a) **YOU ARE TO WORK**

☐ by obtaining a job within _____ days and reporting it to the Bail Project at 633-7704, 264-4987.

☐ 4b) **YOU ARE TO STUDY**

☐ by maintaining your job at _____ employer's name and address

☐ by maintaining your student status at:
or by enrolling in school at _____ name of school

☐ 5) **YOU ARE TO STAY**

☐ away from the complaining witness ☐ within the Indianapolis area

☐ 6) **OTHER CONDITION**

You are further instructed that any violation of a condition of release may subject you to fine or imprisonment for contempt of court, or result in the revocation of your release conditions.

NEXT DUE BACK in Courtroom No. _____ at _____ AM PM on _____ or when notified and you must appear at all subsequent continued dates.

ATTORNEY:
_____ name
_____ address _____ phone no.

DEFENDANT'S SIGNATURE ▷ _____ I understand the penalties which may be imposed on me for violation of any condition of release and agree to comply with the conditions of my release and to appear as required.

WITNESSED BY: _____ (title) _____

IMPORTANT: YOU ARE TO NOTIFY IMMEDIATELY THE BAIL COMMISSIONER, FIFTH FLOOR - EAST WING, CITY-COUNTY BLDG. (TELEPHONE 633-7704) OF ANY CHANGE OF ADDRESS, EMPLOYMENT, OR CHANGE IN STATUS OF ANY RELEASE CONDITIONS.

APPENDIX G-2

STATE OF INDIANA IN THE _____ COURT

COUNTY OF _____ Cause No. _____

STATE OF INDIANA
VS.

_____ OFFENSES CHARGED _____

COURT ORDER ON PRELIMINARY ARRAIGNMENT

Comes now the defendant, in person, and by counsel _____ _____, and the state appearing by deputy prosecuting attorney _____, and the court being duly advised in the above entitled cause now orders:

_____ 1. The Cause is dismissed.
_____ 2. Defendant is held without bail.
_____ 3. Defendant is ordered to be remanded to the Sheriff, in lieu of bail in the amount of $_____.
_____ 4. Defendant is Released on his own Recognizance.
_____ 5. Defendant is to be released subject to conditions _____.
_____ 6. Defendant may deposit 10% Cash bail as collateral for bond in the amount of $_____.

Further, it is ordered that the defendant appear before the _____ _____ Court, No. ____, located _____, on the date _____ at _____ AM/PM

Date _____ _____
Judge

DEFENDANT'S PROMISE TO APPEAR AND REPORT

As a result of the information I have given to the court concerning my residence, family, and employment, I understand that I am being (_____) released on my own recognizance; (_____) allowed to post 10% cash bail. I agree to report to the Court Bail Agency until my case is closed. I understand that if I fail to report or to appear, my bail will be revoked and I will be arrested and returned to jail.

_____
Signature

APPENDIX O

DATE: _____ NO-SHOW REPORT AGE____ SEX____ RACE____

NAME: _____ DOB _____
last first

ARREST DATE: _____ INTERVIEW NO. _____ INT.BY _____

OFFENSE
CHARGED: _____ CAUSE NO. _____

_____ _____

LOCK-UP BAIL _____ BY _____ COURT BAIL _____ SET BY _____

POINTS____ _____ ATTORNEY _____

CONTINUANCES: _____

DATE OF FAILURE TO APPEAR: _____ FTA VERIFIED _____

REARREST BOND: _____ REARREST WARRANT SENT _____

CONTACT WITH DEFENDANT: _____

_____

REASON FOR NOT APPEARING: _____

_____

_____

VERIFICATION REFERENCES CHECKED: _____

_____

_____

_____

DEFENDANT'S NEW ADDRESS: _____ PHONE _____

LIVES WITH _____ HOW LONG _____

PRESENT EMPLOYER: _____ PHONE _____

REMARKS BY INVESTIGATOR: _____

_____

_____

_____

_____

DISPOSITION: _____ DATE: _____

WILLFUL_____ NON-WILLFUL_____ RETURNED BY: -BAIL COMMR:_____
-RE WARR. SERVED:_____
FUGITIVE_____ -NEW OFFENSE:_____

MONTH: _____ TYPE OF BAIL REC. _____ NO-SHOW NO. _____

APPENDIX P

MEMORANDUM

To: I.P.D. Warrant Section

From: Bail Commissioner of Municipal Courts

Subject: Rearrest Warrant

_____ _____
NAME ALIAS

has failed to appear in Court _____ to answer to the charge of _____

_____ Cause No. _____ I.P.D. Case No. _____

on _____.
DATE

A rearrest warrant has been issued by the Court in which his bond is set at $_____.

He now lives at _____
ADDRESS

_____, with _____,
PHONE

and is employed at _____.

If not found there, he may be at _____

with _____. The best time to serve this

warrant is _____.

Your assistance in returning this fugitive from justice is hereby requested and will be greatly appreciated. Please let us know if you were able to serve the warrant and any problems you may have had.

_____
BAIL COMMISSIONER

RETURN BY I.P.D.

The above-mentioned rearrest warrant WAS WAS NOT served upon the defendant

on _____.
DATE

Remarks _____

_____

_____
OFFICER

☆ U. S. GOVERNMENT PRINTING OFFICE : 1977 241-092/2195